



**STATE OF WISCONSIN**  
Department of Safety and Professional Services  
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**Governor Scott Walker      Secretary Dave Ross**

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**MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING  
BOARD (VIA LIVE MEETING)  
Room 121A, 1400 E. Washington Avenue, Madison  
Contact: Tom Ryan 608-261-2378  
August 21, 2012**

*The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.*

**9:00 A.M.**

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (insert) (1-4)**
- B. New Board Appointees**
- C. Recognition of Board Members**
- D. Approval of Minutes – January 31, 2012 (insert) (5-8)**
- E. Secretary Matters**
- F. Executive Director Matters**
  - 1) Staff Changes
  - 2) Other
- G. Presentation of Proposed Stipulations, Final Decisions and Orders, including any received after preparation on the agenda**
  - 1) Yan Ling Romanek – 11 MTB 001 (47-52)
    - o Attorney Susan Gu
    - o Case Advisor – John Anderson
  - 2) Scott K. Jordan – 10 MTB 006 (53-58)
    - o Attorney Kim Kluck
    - o Case Advisor – John Anderson
- H. Board Discussion Items including any received after printing of agenda**
  - 1) **Division of Enforcement Matters**
    - a. Discussion of DOE Policy Regarding Screening – **APPEARANCE 9:10 A.M. – JEANETTE LYTLE, DOE ATTORNEY SUPERVISOR, INTAKE/MONITORING SUPERVISOR** (insert) (9-10)
  - 2) **Review and Discussion of Report from the July 19, 2012 Meeting at the Educational Approval Board (insert) (11-20)**

- 3) Presentation of Proposed Stipulations and Final Decisions and Orders
- 4) Presentation of Proposed Decisions
- 5) Petitions for Re-hearing
- 6) Petitions for Summary Suspension
- 7) Petitions for Extension of Time
- 8) Petitions for Assessments
- 9) Petitions to Vacate Orders
- 10) Requests for Disciplinary Proceeding Presentations
- 11) Motions
- 12) Appearances from Requests Received or Renewed
- 13) **Education and Examination Matters/CE Issues**
  - a. State Jurisprudence Examination Revisions – APPEARANCE 9:20 – AARON KNAUTZ, EXAMINATIONS SPECIALIST, OFFICE OF EDUCATION AND EXAMINATIONS (insert) (21-22)
- 14) **FSBMT Annual Meeting Report** (insert) (23-24)
- 15) Credentialing Matters/Application Issues
- 16) Practice Questions/Issues
- 17) **Legislation/Administrative Rule Matters**
  - a) CR 08-086 Proposed rule Order AED Requirement for Massage Therapists and Bodywork Therapists (insert) (25-30)
  - b) Draft of Proposed Rules to Reflect Changes to SPS Chs. 90-94 Pursuant to the Passage of 2009 WI Act 355 (insert) (31-38)
- 18) Liaison Reports
- 19) Speaking Engagement, Travel, Public Relation Requests

**I. Informational Items**

- 1) Journal Sentinel Article – *Chiropractors, Massage Therapists Practice Despite Allegations* (insert) (39-46)

**J. New/Other Business**

**K. Public Comments**

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)**

**L. Deliberation of Proposed Stipulations, Final Decisions and Orders including any received after printing of the agenda**

- 1) Yan Ling Romanek – 11 MTB 001 (insert) (47-52)
  - o Attorney Susan Gu
- 2) Scott K. Jordan – 10 MTB 006 (insert) (53-58)
  - o Attorney Kim Kluck

**M. Deliberation of Proposed Administrative Warning(s)**

- 1) 11 MTB 013 (R.H) (insert) (59-62)

**N. Deliberation of Proposed Decision and Order**

- 1) Joao L.Fraser – 11 MTB 003 and 11 MTB 010/DHA Case No. SPS-11-0084 (insert) (63-72)

**O. Case Closings (insert) (73-74)**

- 1) 12 MTB 002 (insert) (75-78)
- 2) 12 MTB 007 (insert) (79-82)
- 3) 11 MTB 014 (insert) (83-86)

**P. Deliberation of other items received after printing of agenda**

- 1) Proposed Stipulations
- 2) Proposed Decisions and Orders
- 3) Objections and Responses to Objections
- 4) Complaints
- 5) Petitions for Summary Suspension
- 6) Remedial Education Cases
- 7) Petitions for Extension of Time
- 8) Petitions for Assessments
- 9) Petitions to Vacate Orders
- 10) Motions
- 11) Administrative Warnings
- 12) Matters Relating to Costs
- 13) Appearances from Requests Received or Renewed
- 14) Examination Issues
- 15) Continuing Education Issues
- 16) Credentialing Matters/Application Issues
- 17) Case Closings
- 18) Case Status Report
- 19) Monitoring Cases
- 20) PAP Cases

**Q. Consulting with Legal Counsel**

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

**R. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate**

**S. Other Board Business**

**ADJOURNMENT**

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**MASSAGE THERAPY AND BODYWORK THERAPY  
AFFILIATED CREDENTIALING BOARD  
MEETING MINUTES  
JANUARY 31, 2012**

**PRESENT:** John Anderson (phone), Elizabeth Krizenesky, Carole Ostendorf, Cindy Spitz (phone), Wendy Wettengel-Perrigou (phone), Barbara Yetter

**STAFF:** Tom Ryan, Executive Director; Sandy Nowack, Legal Counsel; Karen Rude-Evans, Bureau Assistant; Shawn Leatherwood, Paralegal

**GUESTS:** David Dies, EAB; Ramona Trudeau, Becca Ziegler, Dennis Trudeau, Erin Cullen, Heather Kwiatkowski, Michelle Gilbert, Tori Mason, Agnes McMeeken and Celine Gilbert, North Eastern Wisconsin School of Massage

**CALL TO ORDER**

Elizabeth Krizenesky called the meeting to order at 9:01 a.m. A quorum of six (6) members was confirmed.

**ADOPTION OF AGENDA**

**Amendments:**

- Final Draft of CHR 08-06 Regarding Training and Proficiency on the Use of Automated External Defibrillators
- Case Status Report

**MOTION:** Cindy Spitz moved, seconded by Barbara Yetter, to adopt the agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES - DECEMBER 1, 2011**

**MOTION:** Carole Ostendorf moved, seconded by John Anderson, to approve the minutes of December 1, 2011 as written. Motion carried unanimously.

## ELECTION OF OFFICERS

**MOTION:** Carole Ostendorf moved, seconded by Barbara Yetter, to retain the same slate of officers for 2012 and to revisit the elections at the next meeting. Motion carried unanimously.

<b>2012 OFFICERS</b>	
<b>Chair</b>	Elizabeth Krizenesky
<b>Vice Chair</b>	Carole Ostendorf
<b>Secretary</b>	Barbara Yetter

## SECRETARY MATTERS

There was no report at this time.

## EXECUTIVE DIRECTOR MATTERS

### **Annual Policy Review and Board Member Guidebook**

Tom Ryan reviewed the Department's policies with the Board. Board members were asked to complete and return the signature page.

Sandy Nowack gave an overview of her duties as legal counsel for the Board.

### **2012 Meeting Dates**

The 2012 meeting dates were noted.

## BOARD DISCUSSION ITEMS

### **Review of Frequently Asked Questions**

Sandy Nowack reviewed the frequently asked questions and her responses with the Board. Elizabeth Krizenesky noted the original rules were drafted in 1999.

**REVIEW OF FINAL DRAFT OF CHR 08-086 REGARDING TRAINING AND PROFICIENCY IN THE USE OF AUTOMATED EXTERNAL DEFIBRILLATORS FOR LICENSURE AS A MASSAGE THERAPIST OF BODYWORK THERAPIST**

Shawn Leatherwood reviewed the draft rule and the rule-writing process with the Board.

**MOTION:** Elizabeth Krizenesky moved, seconded by John Anderson, to approve the draft rule and to file the rule with the Legislature. Motion carried unanimously.

Shawn Leatherwood will work with Elizabeth Krizenesky on rule drafting.

**PUBLIC COMMENTS**

Ramona Trudeau stated her opinion that the definitions of “student clinic” and “supervision” need to be very clear. Ms. Trudeau came with seven students to the meeting from the North Eastern School of Massage in Waldo, WI.

**ADJOURNMENT**

**MOTION:** Cindy Spitzza moved, seconded by John Anderson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:19 a.m.

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**State of Wisconsin  
Department of Regulation and Licensing**

**AGENDA REQUEST FORM**

<b>Name and Title of Person Submitting the Request:</b>  Jeanette Lytle	<b>Date When Request Submitted:</b> June 1, 2012
Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>	

**Name of Board, Committee, Council:**  
 Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

<b>Board Meeting Date:</b> August 21, 2012	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No	<b>How should the item be titled on the agenda page?</b> Discussion of DOE policy regarding screening.
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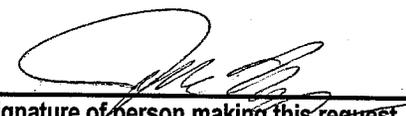
<b>Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>Is an appearance before the Board being scheduled? If yes, by whom?</b> <input checked="" type="checkbox"/> Yes by Jeanette Lytle <input type="checkbox"/> No	<b>Name of Case Advisor(s), if required:</b>
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**Describe the issue and action the Board should address:**  
 DOE will discuss screening policy and answer any questions the board may have regarding screening protocols.

**If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:**

- Directions for including supporting documents:**
1. This form should be attached to any documents submitted to the agenda.
  2. Documents submitted to the agenda must be single-sided.
  3. Only copies of the original document will be accepted.
  4. Provide original documents needing Board Chairperson signature to the Bureau Director or Program Assistant prior to the start of a meeting.

**Authorization:**

	6/12/12 Date
Supervisor signature (if required)	Date
Bureau Director signature (indicates approval to add late items to agenda)	Date

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: Massage Therapy Affiliated Credentialing Board			
4) Meeting Date: August 21, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? July 19 meeting at Educational Approval Board	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  Review report and discuss issues raised.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date



## State of Wisconsin / Educational Approval Board

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Scott Walker  
Governor

David C. Dies  
Executive Secretary

### MEMORANDUM

Date: July 27, 2012  
To: Massage Therapy School Folks  
From: Pat Sweeney  
Re: Summary of July 19 Meeting

Given participant feedback, the July 19 meeting was informative, meaningful, and productive. As the attached agenda shows, the meeting conversations focused on three topics:

- Implementation of 2009 Wisconsin Act 355
- Individual Licensing and the Role of Schools
- Administrative Rules Process and Issues

Using the three agenda headings, I will try to summarize the meeting's important points. Since the conversations were rich with information and examples, I expect my summary will capture only the "big ideas". You will note the agenda also included "Next Steps/Actions" the Massage Therapy schools may wish to pursue as a result of the Administrative Rules process of the Affiliated Credentialing Board and Department of Safety and Professional Services (DSPS) for Wisconsin Act 355. At the August 21 meeting of the Affiliated Credentialing Board, the Board will review and seek initial input on a draft of Administrative Rules. The Massage Therapy schools thought a September meeting might be appropriate to discuss the draft of the Administrative Rules.

#### Implementation of 2009 Wisconsin Act 355

As the Massage Therapy School Folks pointed out, perhaps the most important "lesson learned" from the implementation of Wisconsin Act 355 was how critical it is for the Affiliated Credentialing Board and DSPS to communicate clearly and well-in-advance to the schools about new requirements, process changes, and policy issues so school personnel can understand and do what's expected/needed. As a prime example of this implementation "lesson learned", the participants focused on the State Law and Administrative Rules Exam (State Exam) and the new school requirements. Schools reported they did not understand their role with the State Exam being a graduation requirement when the law took effect on January 1, 2012. This lack of understanding meant schools and students had problems with the licensing application process, likely causing additional work for DSP staff.

Off the implementation topic a bit, school folks noted the content of the State Exam seemed to lack a focus on the law, rules, and ethics of the profession; and suggested the State Exam content and questions be revised. After conversations about the State Exam at several points during the meeting, it seemed a consensus of school folks thought the Affiliated Credentialing Board may wish to convene a workgroup to examine the Exam's content, offer suggested revisions if needed, and draft a curriculum outline for the required 6 classroom hours on the "Law and Administrative Rules" so the schools' curriculum and the State Exam content could be focused, consistent, and harmonized.

Questions and discussion concerning how the schools should administer the State Exam were deferred to the next agenda item specifically addressing the schools' role in the licensing process.

### **Individual Licensing and the Role of Schools**

Using Brittany Haberman's two-page summary (attached) of the DSPS Massage Therapy Licensing process, Mr. Thomas Ryan (DSPS) gave participants a detailed and thorough explanation of the application process and the schools' role in that process. Mr. Ryan pointed out that Massage Therapy maybe be the only profession which has taking and passing the State Exam as a graduation requirement. All other professions require the State Exam as part of the application process after the individual graduates.

Individual students must apply for licensure and pay the licensure fee well before the school has prepared her/him to take the State Exam. Once DSPS processes the licensing application, DSPS will email or mail the student information about the status of the application including information needed to take the open-book State Exam. After taking the exam, each student should choose the "Print Test Feedback Report" option to receive the exam's score. The "report" should be submitted to the school as proof of passing the State Exam. Upon the student's graduation, the school should complete "Program Curriculum Form", DSPS #2962 (attached) checking the items the student has taken and passed the State Exam. Do not submit the students' State Exam Report to DSPS because it causes privacy problems.

A question was raised about a student's criminal background during the school application process and/or licensure process. Ms. Sandra Nowack (DSPS) explained each case during a licensure application has to be determined individually given each set of circumstances is different. Ms. Ostendorf gave an example of a school application and advised school folks to have students with criminal backgrounds which may prevent licensure sign a statement saying she/he is enrolling in a massage therapy program with the understanding licensure could be denied.

A discussion of National Exams followed: National Certification Examination of the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), Massage & Bodywork Licensing Examination (MBLE) of the Federation of State Massage Therapy Boards, and the Asian Bodywork Therapy Exam of the National Certification Commission of Acupuncture and Oriental Medicine (NCCAOM). Students can take a National exam before graduating so the need for a six-month temporary license to take and pass a National Exam is needed only for unusual circumstances. The School Folks agreed it made sense to have the DSPS licensing application fee and the national exam fee included in the schools' program cost so every student would have the schools' assistance through the licensure application process before graduation so licensing could occur soon after graduation.

### Administrative Rules Process

The Affiliated Credentialing Board's attorney, Ms. Nowack explained the Administrative Rules Process and Timeline (attached). Ms. Nowack said the Administrative Rules Process is complex and the timeline could be extended. Note that at its August 21 meeting, the Affiliated Credentialing Board is scheduled to review the proposed rule draft. In addition, there will be a Public Hearing on the rule around November/December where the Board takes public testimony concerning the rule and can then make changes to the rule based on the public testimony.

### Administrative Rules Issues

For a state agency like DSPS, the first step in the complicated Administrative Rules Process is developing a "Scope Statement" which delineates the topics/issues the rule will address. For example, the DSPS Scope Statement does include "continuing education" so it will be addressed in the Administrative Rule. But, "instructor qualifications" will not because it was not in the Scope Statement. Likely, it was determined that statutory language defining "instructor qualifications" provided sufficient guidance.

The meeting participants identified a number of issues which could be addressed in administrative rule. Ms. Nowack participated in the discussion of issues and offered a number of clarifications and insights which helped everyone's understanding. Likely, this discussion also aided Ms. Nowack in the rule drafting process. Following are the issues identified and a brief description of the conversation.

- **Continuing Education** – The statutes say the Affiliated Credentialing Board may promulgate rule which requires a license holder to complete no more than 24 hours of continuing education program or courses of study in order to qualify for renewal of her/his two-year license. The rules process will address continuing education. Tom Ryan (DSPS) stated many professions have a continuing education requirement. The Affiliated Credentialing Board will have to develop a process for approving providers, programs, and/or courses. Then, license holders will have to report meeting the hour requirements by listing the continuing education taken on her/his renewal application.
- **Clinic Hours** – There is no standard definition for how schools calculate clinic hours nor is there a "best practice" range for how many clinic hours adequately prepare a student to be a massage therapist. All participants agreed hands-on practice on members of the general public is critical to massage therapy training. Likely, programs with a therapeutic focus could require more clinic hours. The definition of "supervision" for clinic will also be needed for "temporary license" and "externship".
- **Externships** – After a student completes student clinic, a school could require/offer a student an externship where a student functions under supervision as a massage therapist in a business. The EAB has standards for schools which offer/require a student externship like a contract/agreement with the employing business, evaluation by the employing business of the student, and oversight and evaluation of the externship by the school. It is likely the Administrative Rule would define "supervision" for the off-site, school-sponsored learning activity.
- **Students Receiving Compensation** – I call your attention to the January 12, 2012 memo from Ms. Nowack to the Affiliated Credentialing Board (attached) which shows an evolving discussion

as to whether massage therapy students can be compensated for massages given to public members. Since students are not massage therapists, any compensation for students seems inappropriate.

- **Off-site Practice and Family and Friends** – While student liability insurance from providers like AMTA does cover students practicing massage on family and friends, a question was raised whether schools should/could require such practice now Wisconsin Act 355 was a practice protection law. It seems that some schools' past practice requiring so many hours of massage on family and friends away from the school and counting those hours as program hours must be discontinued under Wisconsin Act 355 because those students would be practicing massage therapy without a license.
- **Temporary Six-Month License** – The purpose of the temporary license is for massage therapy school graduates who have not taken and passed one of the national exams to be able to practice under supervision. Now that schools have the State Exam as a graduation requirement and the two National massage therapy exams allow test taking prior to graduation, there is little need for a temporary license. If every school has its students' tuition include costs for the massage therapy license and a National exam, almost all students should have their DSPPS licensing application completed by graduation. The temporary license would only be needed for unusual circumstances. The issue of "supervision" for an individual with a temporary license remains problematic and "supervision" will need to be addressed in administrative rule including for "student clinic" and "externship".

#### **Next Steps: A Possible September Meeting on the Administrative Rules**

At its August 21 meeting, the Affiliated Credentialing board will discuss and act upon the draft of the Administrative Rules for 2009 Wisconsin act 355. The draft rules will likely be posted on the DSPPS website with the agenda and other meeting materials a few days before the August 21 meeting. Several schools will attend that meeting as will the EAB. The Massage Therapy Schools Folks at the July 19 meeting thought a September meeting would be appropriate to discuss the content of the administrative rules and to decide on a course of action. The EAB offered to organize and host the September meeting.



## State of Wisconsin / Educational Approval Board

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Scott Walker  
Governor

David C. Dies  
Executive Secretary

### IMPLEMENTATION AND ADMINISTRATIVE RULES ISSUES

Thursday, July 19, 2012

9:00 a.m. - 2:30 p.m.

201 West Washington Avenue, 1<sup>st</sup> Floor  
Madison, WI

8:30 - 9:00 a.m.	Registration and Continental Breakfast (Provided)
9:00 - 9:15 a.m.	Welcome Introduction
9:15 - 9:35 a.m.	Issues Identification <ul style="list-style-type: none"><li>• Implementation</li><li>• Individual Licensing and Role of Schools</li><li>• Administrative Rules</li></ul>
9:35 - 9:50 a.m.	Implementation Issues Discussion
9:50 - 10:20 a.m.	Individual Licensing and Role of Schools Discussion
10:20 - 10:45 a.m.	Administrative Rules Process (Refreshment Provided)
10:45 - 11:30 a.m.	Administrative Rules Issues and Discussion
11:30 a.m. - 12:15 p.m.	Lunch (Provided)
12:15 - 2:00 p.m.	Administrative Rules Issues and Discussion Continued
2:00 - 2:30 p.m.	Next Steps/Actions of Massage Therapy Schools
2:30 p.m.	Adjourn

## Application Processing Information for Massage Therapy or Bodywork Therapy Schools

As a school in Wisconsin, you are required to have each student complete and pass our Wisconsin Statutes and Rules Exam as a prerequisite to graduation. Please note that you may not allow a student to graduate until this exam has been completed and passed. After graduation, you will need to complete the Program Curriculum Form #2962 for each student and forward directly to the Department.

### Program Curriculum Form #2962

We cannot accept anticipated completion dates. The form must be signed and dated after the student's completion date.

This form must be an original with an original signature and school seal. We cannot accept copies.

Complete each line that is applicable including the Business, Law & Ethics for the six classroom hours and the Wisconsin Statutes and Rules exam.

To show proof that a student has completed and passed this exam, you must check the appropriate line on the Program Curriculum Form #2962.

### Wisconsin Statutes and Rules exam

Students will receive their login instructions to take this exam after they submit the DSPS Application for Massage Therapist or Bodywork Therapist Form #2960 directly to our Department. We encourage you to have students submit the application at least two months prior to completion of coursework to ensure that enough time is allowed for processing and possible failures.

Once the application is received in the Department, please allow at least 7-10 business days for processing time. During this processing time, we will enter the information into our computer database system and provide the exam information directly to the student via their Applicant Checklist. If an email address has been provided, the student will receive an email from the Department indicating their application ID number and instructions to access the application status online. If an email address has not been provided, the checklist will be sent by first class mail to the mailing address provide on the application.

The online application status will provide the information needed to take the Wisconsin Statutes and Rules open book exam. At this time, they may also view the Applicant Checklist for requirements which have been "met" or "not met" to complete the licensure process. It is the student's responsibility to monitor their status online for requirements which may still be outstanding in order to complete the licensure process.

Each student will receive a test feedback report after taking the exam. The report should be submitted directly to the school as proof that they passed the exam. Do not forward this report to DSPS.

**Other DSPS Forms and Information**

If you will be assisting the student with other documentation required for licensure, please note the following:

When providing the students with the entire application packet, ensure that you obtain the most up-to-date application material directly from the DSPS website.

Copies of the front and the back of the CPR/AED card should be submitted. This card must be signed and dated. All CPR/AED courses taken must be provided by a Department of Health Services-approved course provider.

As proof of malpractice insurance, a copy of the Certificate of Malpractice Insurance Policy issued to the student to work as a professional outside of their student status must be provided. We cannot accept copies of the student membership certificate, card or proof of membership.

When the student registers to take a National Exam and they wish to practice in Wisconsin, they will need to request the National body or testing service to submit verification of their passing score report directly to DSPS.

If you have any additional questions or need further clarification, please contact Brittany Haberman at [brittany.haberman@wisconsin.gov](mailto:brittany.haberman@wisconsin.gov) or call 608-266-2112.

# Wisconsin Department of Safety and Professional Services

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## MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING BOARD

### MESSAGE THERAPY OR BODYWORK THERAPY PROGRAM CURRICULUM

NOTE: THIS FORM MUST BE FORWARDED AND COMPLETED BY YOUR SCHOOL AND RETURNED DIRECTLY TO THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES, PO BOX 8935, MADISON, WI 53708-8935

APPLICANT - PLEASE COMPLETE THIS SECTION PLEASE TYPE OR PRINT IN INK

Last Name	First Name	MI	Former / Maiden Name(s)
Your Street Address (number, street, city, state, zip)			
Mail To Address (if different)			
Date of Birth		Daytime Telephone Number	
____	____	(    )	____
month	day	year	
Social Security Number (Optional - for use by school to locate your records.) _____			

**CERTIFYING SCHOOL - PLEASE COMPLETE THE FOLLOWING SECTIONS WHICH APPLY**  
**SECTION I (For applicants who COMPLETED a 600 hour training program.)**

Enter the number of classroom hours of study the applicant has completed in the seven areas that are listed below. *The total must be at least 600 hours.*

**HOURS**

- \_\_\_\_\_ Anatomy, Physiology, Pathology, Kinesiology (125 required)
- \_\_\_\_\_ Business, Law & Ethics (50 required)  
 Note - CHECK IF APPLICABLE - includes at least 6 classroom hours in the laws of the State of Wisconsin and rules of the department relating to the practice of massage therapy or bodywork required by s. RL 91.01(3)(b).
- \_\_\_\_\_ Wisconsin state laws and administrative rules governing massage therapy and bodywork therapy.  
 Note - CHECK IF APPLICABLE - student has taken and passed the Wisconsin state law and administrative rules examination.
- \_\_\_\_\_ Massage Therapy or Bodywork Theory, Technique and Practice (300 required)
- \_\_\_\_\_ Student Clinic (20 required)
- \_\_\_\_\_ Adult CPR/AED & Standard First Aid (5 required)
- \_\_\_\_\_ Additional Course Offerings Meeting Massage Therapy or Bodywork Course Objectives (\_\_\_\_ required)
- \_\_\_\_\_ **TOTAL HOURS COMPLETED** (Must equal 600 hours or more)

### AFFIDAVIT

I attest to the fact that \_\_\_\_\_  
 (Name of Applicant)  
 completed at least 600 hours of classroom study in a training program in massage therapy or bodywork therapy listed above at  
 \_\_\_\_\_  
 (Name of School)

This school was accredited by \_\_\_\_\_  
 (fill in blank)  
 at the time the applicant completed the required 600 hours of classroom study. \_\_\_\_\_  
 (Coursework Completion Date)

Signature of Dean or Department Head \_\_\_\_\_ Phone Number \_\_\_\_\_

Date \_\_\_\_\_ **SCHOOL SEAL**

#2962 (2/12)  
 Ch. 460, Stats.

Committed to Equal Opportunity in Employment and Licensing

## Massage & Bodywork Therapy Time Table

Month	Task	Who is Responsible	Status
January 3, 2012	Pt Board approves scope statement	• N/A	• Done
January 13, 2012	Governor approves scope statement	• Shawn	• Done
February 14, 2012	Scope Published in Admin. Register #674	• Shawn	• Done
June-August 2012	Drafting of language	• Sandy	• Pending
August 21, 2012	Board review of proposed rule draft (Board appoints delegate for approval)	• Sandy	• Pending
Aug-Sept. 2012	MED Board Review of proposed draft of the rule & approval for filing with the Clearinghouse per s. 15.085 (5) (b) (1) and (2) Stats. (shall submit the proposed rule to the examining board at least 60 days prior to filing with the clearing house)	• Sandy/Shawn	• Pending
September	Post proposed rule on DSSPS website for 14 days for input from small business	• Shawn	• Pending
October 2012	Proposed Rule submitted to the Clearinghouse for Review (20 days)	• Shawn	• Pending
Nov./Dec 2012	Public hearing held	• Shawn	• Pending
Dec. 2012	Public Comment Period Ends	• Sandy/Shawn	• Pending
Dec 2012	Incorporate proposed changes	• Sandy/Shawn	• Pending
Dec. 2012	Board approves filing with legislature (appoints delegate)	• Sandy/Shawn	• Pending
January 2013	Submit to Governor for approval	• Shawn	• Pending
February 2013	Submit Proposed Rule to Legislature for committee review	• Shawn/Sandy	• Pending

\*This timetable is tentative and subject to change as tasks are completed.

**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: August 21, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  State Jurisprudence Examination Revisions– APPEARANCE – Aaron Knautz, Office of Education and Examinations	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input checked="" type="checkbox"/> Aaron Knautz, Office of Education and Examinations  <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  Aaron Knautz will address the Board regarding revisions to the examination.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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**State of Wisconsin  
Department of Safety & Professional Services**

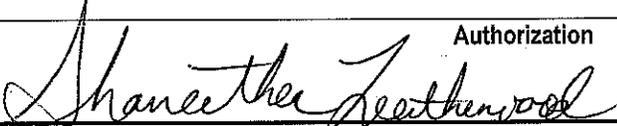
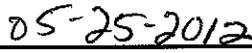
**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: August 21, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? FSBMT Annual Meeting Report	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  Receive the report and discuss.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Shawn Leatherwood, Paralegal		<b>2) Date When Request Submitted:</b>  05/24/2012 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b> Massage Therapy Bodywork Therapy Affiliated Credentialing Board			
<b>4) Meeting Date:</b> August 21, 2012	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> CR 08-086 Proposed Rule Order AED requirement for Massage Therapists and Bodywork Therapists	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b> <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b> N/A	
<b>10) Describe the issue and action that should be addressed:</b>  Consider and adopt the Proposed Rule Order regarding AED licensure requirement for Massage and Bodywork Therapists  Approve the Proposed Rule Order draft for submission to the Legislative Reference Bureau for publication.			
<b>11)</b>  Signature of person making this request		Authorization   Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN  
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF  
DEPARTMENT OF SAFETY : SAFETY AND PROFESSIONAL  
PROFESSIONAL SERVICES : SERVICES  
: (CLEARINGHOUSE RULE 08-086)

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ORDER

The Wisconsin Department of Safety and Professional Services (formerly the Department of Regulation and Licensing) proposes an order to create SPS 91.01(3) (k) and SPS 93.02 (4), relating to training and proficiency in the use of automated external defibrillators for licensure as a massage therapist or bodywork therapist.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Sections 460.04 (2) (e), 460.05 (1) (i), 460.07(2) (d) Stats.,

**Statutory authority:**

Sections 227.11 (2) (a), and 460.04 (2) (e), Stats., 2007 Wisconsin Act 104

**Explanation of agency authority:**

Section 227.11 (2) (a) confers upon agencies general power to promulgate rules interpreting the provisions of statutes administered or enforced by an agency. 2007 Wisconsin Act 104 amends ch. 460, Stats., which regulates the profession of massage therapy and bodywork therapy. The Act requires the Department of Safety and Professional Services, formerly the Department of Regulation and Licensing, to promulgate administrative rules requiring initial applicants and renewal applicants to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial licensure or renewal. Therefore, the Department is authorized both generally and specifically to promulgate these proposed rules.

**Related statute or rule:**

Wis. Admin. Code §91.01 and §93.02

**Plain language analysis:**

The massage therapy and bodywork therapy administrative rules regarding application for licensure, reciprocal licensure and renewal do not have a requirement for training and proficiency in the use of automated external defibrillators (AED). This proposed rule-making implements 2007 Wisconsin Act 104, requiring initial applicants and renewal applicants for a massage therapist or bodywork therapist credential to be proficient in the use of AED's through the completion of an approved instruction program prior to initial licensure or renewal.

SECTION 1 creates a requirement for applicants for a massage therapist or bodywork therapist credential to be proficient in the use of automated external defibrillators AEDs through the completion of an approved instruction program prior to initial certification.

SECTION 2 creates a requirement for renewal applicants for a massage therapist or bodywork therapist credential to be proficient in the use of AEDs, through the completion of an approved instruction program. The requirement for renewal applicants is the same as the requirement for initial applicants.

**Summary of, and comparison with, existing or proposed federal legislation:**

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**Comparison with rules in adjacent states:**

**Minnesota:**

Minnesota maintains general oversight of the practice of massage therapy and body work through Minn. Stat. §146A, the Unlicensed Complementary and Alternative Health Care Practices Act. This act identifies body work, massage and massage therapy as encompassed within the, "broad domain of complementary and alternative healing methods and treatments". Minn. Stat. §146A.01 Subd. 4 Legislative oversight is administered through the Office of Unlicensed Complementary and Alternative Health Care Practice within the Department of Health. Although, massage therapy and bodywork practitioners are not required to obtain licensure, certification, or registration; the Office of Unlicensed Complementary and Alternative Health Care Practice may receive and investigate complaints and impose discipline.

**Michigan:**

Michigan does not require certification or training in the use of AEDs for licensure of massage therapists. Massage therapists are licensed under MCL 333.17957 of the Public Health Code.

**Iowa:**

Laws and rules for Iowa do not require automated external defibrillator (AED) training. One of the requirements for Iowa licensure is proof of current CPR and First Aid cards, chapter 131, 131.2(6) states: The applicant shall submit proof of completion of a cardiopulmonary resuscitation (CPR) course and a first-aid course that were certified by the American Red Cross, by the American Heart Association, or by the National Safety Council. One of the following shall be required:

- a. Official transcript documenting completion of a CPR class and a first-aid class within one year prior to submitting the application for licensure; or
- b. Copy of the current certification card(s) or renewal card(s).

**Illinois:**

Illinois does not require proficiency and training in the use of AEDs as a requirement for licensure and renewal of massage therapists. Massage Therapists are licensed under Title 68: Professions & Occupations: Chap. VII, Dept. of Financial and Professional Regulation, Subchapter B, Professions and Occupations Part 1284 Massage Licensing Act, ss. 1284.30 Application for Licensure and 1284.60 Renewals

**Summary of factual data and analytical methodologies:**

2007 Wisconsin Act 104 created a requirement for applicants for a credential as a massage therapist or bodywork therapist to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification. This requirement of the Act has been set forth in the newly created rule provisions as directed by the legislature.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic report:**

Training for AED certification and renewal of certification varies. The American Red Cross Badger Chapter in Madison, Wisconsin offers adult CPR/AED classes for \$70.00. The certification is valid for two years. Although similar courses are offered by various providers, based on these figures, AED certification costs for a certified massage therapist could cost approximately \$70.00 for the certification biennium (initial biennium in which AED certification was achieved).

**Anticipated costs incurred by the private sector:**

The department finds that this rule has no significant fiscal effect on the private sector.

**Fiscal estimate:**

The department estimates that this rule will require staff time in Board Services, Division of Management Services, Office of Exams, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$3,032.

**Effect on small business:**

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at [Greg.Gasper@wisconsin.gov](mailto:Greg.Gasper@wisconsin.gov) or by calling (608) 266-6795.

**Agency contact person:**

Shawn Leatherwood, Paralegal, Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov).

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to Shawn Leatherwood, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov). Comments must be received on or before \_\_\_\_\_, to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. SPS 91.01 (3) (k) is created to read:

SPS 91.01 (3) (k) Has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

SECTION 2. SPS 93.02 (4) is created to read:

SPS 93.02 (4) Evidence satisfactory to the board that he or she has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

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(END OF TEXT OF RULE)  
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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Date \_\_\_\_\_

Agency \_\_\_\_\_

Dave Ross, Secretary

Department of Safety and Professional Services

Date \_\_\_\_\_

Board \_\_\_\_\_

Elizabeth Krizenesky, Chairperson

Massage Therapy Bodywork Therapy Affiliated Examining Board

CHR 08-086 MTBT AED Requirement



## MTBT 1 AUTHORITY, INTENT AND DEFINITIONS

\*"client" means a person who has contracted for, who receives, and/or who has received or contracted for, the professional services of a massage therapist, bodywork therapist, student or temporary licensee, whether the massage therapist, bodywork therapist, student or temporary licensee is paid or unpaid for the service, and regardless of where such services occur. If a client is a person under age 18, the client's parents or legal guardian(s) are also clients. [460.04(2)(a) requiring a rule prohibiting sexual intercourse or contact with a client]

\*"direct, immediate, on-premises supervision" means face-to-face contact between the supervisor and the person being supervised, as necessary, with the supervisor physically present in the same building when the service is performed by the person being supervised. [460.04(2)(f) requiring a rule pertaining to a temporary license, which may require supervision]

\*"direct, immediate, one-to-one supervision" means one-to-one supervision with face-to-face contact between the person being supervised and the supervisor throughout the therapy session with the supervisor assisting the person being supervised as necessary. [460.04(2)(f) requiring a rule pertaining to a temporary license, which may require supervision]

\*"general supervision" means direct, on-premises contact between the supervisor, the student or the temporary licensee being supervised, at least once each week. Between direct contacts, the supervisor is required to maintain indirect, off-premises telecommunication contact such that the person being supervised can, within 15 minutes, establish direct telecommunication with the supervisor. [460.04(2)(f) requiring a rule pertaining to a temporary license, which may require supervision]

\*"informed consent" means a client's voluntary, knowing and understood agreement to the service to be provided by the massage therapist, bodywork therapist, temporary licensee or student. Informed consent requires, at a minimum, that the licensee has provided information about reasonable alternate modes of diagnosis and/or treatment, and the risks and benefits of each, that a reasonable person in the client's position would need before making an informed decision concerning the mode of treatment or diagnosis. [460.04(2)(c) requirements and procedures for obtaining the informed consent of a client under § 460.11(1)]

- (a) Informed consent shall be evidenced by the written signature of a client, the client's guardian or the client's power of attorney for healthcare.
- (b) A client may withdraw informed consent verbally or in writing at any time before a service is completed.
- (c) Informed consent shall include an understanding that the client may, upon request, have a chaperone present while massage therapy or bodywork therapy services are provided.
- (d) No service or part of a service may be provided without the client's informed consent or after informed consent has been withdrawn.

\*"intimate parts" has the meaning given in § 939.22(19) [the breast, buttock, anus, groin, scrotum, penis, vagina or pubic mound of a human being].

\*"massage therapy intern or bodywork therapy intern" means a student currently enrolled in an approved massage therapy or bodywork therapy school or program and in good standing, who provides massage and body work therapy services under the following conditions:

- a. A clinic instructor provides direct supervision of a licensed massage therapist or body work therapist or more intensive supervision if required to avoid unacceptable risk of harm to the client;
- b. Services are provided on school or program premises;
- c. Services are provided without financial compensation to the massage therapy intern or bodywork therapy intern;
- d. Clients have given informed consent to be treated by a massage therapy intern or bodywork therapy intern.

\*"massage therapy extern or bodywork therapy extern" means a student currently enrolled in an approved massage therapy or bodywork therapy school or program, who provides massage therapy and body work therapy services under the following conditions:

- a. The extern has successfully completed an massage therapy or bodywork therapy internship and has been approved for an externship by an instructor affiliated with the massage therapy or bodywork therapy school or program in which the student is enrolled;
- b. A licensed massage therapist or body work therapist, whose license is current and unlimited, provides direct supervision of a licensed massage therapist or body work therapist or more intensive supervision if required to avoid unacceptable risk of harm to the client;
- c. Services are provided off school or program premises;
- d. Services are provided without financial compensation to the massage therapy extern or bodywork therapy extern;
- e. The externship site has been approved by the school or program and has been determined to meet requirements of the education approval board (do EAB requirements include liability insurance covering the externs activities?);
- f. Clients have given informed consent to be treated by a massage therapy extern or bodywork therapy extern.

\*"sexually oriented business" means any for-profit entity that offers or provides sexually explicit conversation and/or exposure of any person's intimate parts and/or direct or indirect contact with any person's intimate parts, for purposes other than legitimate practice of massage therapy or bodywork therapy, including but not limited to prostitution as defined by\*. [460.04(2)(d) and 460.11(3) requiring the board to define "sexually oriented business"]

\*"temporary licensee" means a graduate of a massage therapy or bodywork therapy school or program who has met the requirements for and who has been granted a temporary license to practice massage therapy and bodywork therapy as provided in §\* [460.04(2)(f) requiring requirements for a temporary license prior to licensure]

DISCUSSION DRAFT

**MTBT 2**  
**LICENSE TO PRACTICE MASSAGE THERAPY AND BODYWORK THERAPY**

**AUTHORITY**

460.08 Temporary license. The affiliated credentialing board may grant a temporary license for a period not to exceed 6 months to an applicant who satisfies the requirements established in the rules under s. 460.04(2)(f). A temporary license may not be renewed.

460.04(2) The credentialing board shall promulgate rules that establish all of the following:

...

(f) Requirements to be satisfied by a person seeking a temporary license under s. 460.08. The rules promulgated under this subsection shall require the person to be a graduate of a massage therapy or bodywork therapy school or program and may require the holder of a temporary license to make disclosures to clients and to practice under the supervision of a massage therapist or bodywork therapist licensed under this chapter.

DISCUSSION DRAFT

**Temporary license prior to licensure. (1)** The affiliated credentialing board may issue a temporary license to practice massage therapy and bodywork therapy to an applicant for licensure who meets the criteria under §\* and who has done all of the following:

- (a) Submits a completed application for licensure and a completed application for temporary licensure.
- (b) Remits the fee specified in §\*.
- (c) Has successfully completed an educational program as defined in §\*
- (d) Has not previously failed any examination required in §\* unless the applicant has subsequently passed the failed examination
- (e) Has passed the state board statutes and rules examination

**(2)** Practice during the period of temporary license shall be under the supervision of a licensed massage therapist or bodywork therapist, at the level of general supervision or as necessary to avoid unacceptable risk of harm to the client. The supervising massage therapist or body work therapist is responsible for determining the level of supervision necessary to avoid unacceptable risk of harm to the client.

- (a) A person holding a temporary license shall meet face-to-face with the supervising massage therapist or bodywork therapist as necessary to insure that the temporary licensee performs competently, including creation and maintenance of records as required in §\*.
- (b) The temporary licensee shall provide each client the name, contact information and license number for the supervising massage therapist or bodywork therapist responsible for supervision of the temporary licensee.
- (c) Prior to commencing any health care service, a temporary licensee shall obtain written informed consent of all clients. The informed consent documentation shall include, in addition to other requirements, an acknowledgement that the temporary licensee is not fully credentialed and that the client has been provided the information required by (b).

**(3)** A temporary license expires 6 months after the date of issuance or when the Department provides notice that the temporary licensee has failed or passed the examination required by § 460.06, whichever is first.

- (a) A temporary license shall not be renewed.
- (b) No person shall be issued more than one temporary license in any 365 day period.

**(4)** The supervising massage therapist or bodywork therapist is responsible for the acts of the temporary licensee under supervision. The Board may discipline the supervising massage therapist or bodywork therapist, student and/or the temporary licensee for any act(s) or omission of the temporary licensee in violation of any state or federal statute, rule, regulation or order of the massage therapy and bodywork therapy affiliated credentialing board or of the medical examining board.

(5) The application and required documents for licensure and the application for temporary licensure prior to regular licensure will be reviewed by 2 members of the massage therapy and bodywork therapy affiliated credentialing board to determine eligibility. The affiliated credentialing board may issue a temporary license prior to licensure as a massage therapist or bodywork therapist who meets the requirements of sub (1).

(6) Temporary licensees shall use the title massage therapy temporary licensee or bodywork therapy temporary licensee.

**Continuing Education.**

Needs guidance, identify appropriate sources and how to articulate requirements for program approval.

Consider efficiency and ease of identifying multiple sources for licensees.

Consider requirements for new licensees/period of first renewal.

**Instructor qualifications.**

**Classroom hour for CE?**

50 minutes of instruction

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## A JOURNAL SENTINEL WATCHDOG REPORT

### Chiropractors, massage therapists practice despite allegations

By Amy Karon, Special to the Journal Sentinel  
July 8, 2012

Retrieved July 26, 2012 from

<http://www.jsonline.com/watchdog/watchdogreports/chiropractors-massage-therapists-practice-despite-allegations-7l61b3s-161700605.html>

In 2006, chiropractor Peter Baehr confessed to touching three patients' bare breasts without their consent. When sexual assault charges against him hit the news, 16 more women came forward, alleging he'd treated them the same way.

Police notified state regulators at the Department of Safety and Professional Services and at least six patients filed complaints about Baehr, department records show. He was convicted of disorderly conduct and spent 40 days in jail, according to court records.

But regulators didn't stop him from practicing for even a day.

Four years earlier, in 2002, Madison-area massage therapist Larry Palmer repeatedly left a client's breasts exposed instead of draping her with a sheet as state law requires. [Department records](#) also indicate he asked to see her naked when she was nine months pregnant.

The client filed a formal complaint. But regulators didn't discipline Palmer for more than four years - and only after he kept massaging another client's bare breasts even when she asked him to stop. Like Baehr, Palmer kept his license.

The cases show how potentially dangerous professionals have received delayed or minimal discipline from state regulators despite allegations of nonconsensual sexual contact with patients.

Since 1999, at least four professionals in Wisconsin have had criminal convictions related to such misconduct, department and police records show. Baehr, who is among them, is still licensed to practice, while the others' licenses have been suspended but not permanently revoked.

Regulators also took months to years to discipline some providers accused of sexual misconduct that did not lead to criminal charges. At least three professionals who the department concluded had sexually harassed clients are licensed to practice in Wisconsin. And in at least one case, a department attorney ignored the disciplinary recommendations of its own expert adviser in favor of a lighter penalty.

Spokesman Greg Gasper defended the department, writing in an email that since 2011 the department has worked to eliminate its case backlog by developing "accountability techniques (and) metric standards to ensure consistent productivity."

But Dane County Rape Crisis Center executive director Kelly Anderson called the agency's lapses "a breach of trust and a huge issue of concern." Anderson said that in the last few years, several women told her chiropractors or massage therapists touched intimate parts of their bodies without their consent. She would not say whether the women reported these cases to the department or police, citing confidentiality reasons.

### **Licenses seldom revoked**

Wisconsin's regulatory boards have the power to revoke health care providers' licenses if their behavior threatens the health or safety of patients or the public. But in the past 14 years, the chiropractic and massage therapy boards have used that authority only a few times, but never for providers found guilty of criminal sexual misconduct.

For example, the chiropractic board [revoked](#) a provider's license after she treated patients while her license was expired. But Baehr was allowed to keep practicing even though state regulators had evidence suggesting he'd repeatedly touched patients in ways prohibited by state law.

"I went under her shirt," Baehr said in a written statement to Fond du Lac police in 2006. "I ran my hand around her breast and touched her nipple for a second. I immediately withdrew. I thought she needed more attention and I also found it kind of a challenge."

Baehr, who declined interview requests, wrote of another patient: "There were two occasions that I intentionally touched her breast under her bra cup."

Baehr later denied his behavior was sexually motivated, according to police reports obtained from state regulators. But an accuser told police Baehr had breathed hard and pushed his pelvis into the treatment table while touching her.

Charged with four counts of sexual assault, Baehr was convicted of disorderly conduct as part of a plea deal and sentenced to 40 days in jail, 30 months' probation and 100 hours of community service. Instead of revoking or suspending his license, the chiropractic board had him sign a [voluntary agreement](#) not to touch patients' breasts, not to treat women without an observer in the room, and to notify female patients of the discipline.

When police learned Baehr's license wasn't being suspended, they asked the department why.

Investigator Dan Williams' written record of the conversation states he responded: "Because of the elements we would have to prove in order to obtain such a suspension, it (is) going to be quicker and easier to get a voluntary order . . . we have no proof that he is an imminent danger to the public and continuing to practice in an inappropriate manner."

That explanation mirrors spokesman Gasper's. He told the Journal Sentinel the department sometimes pursues voluntary agreements if there is a risk the case would be dismissed if it went to trial.

But Baehr's department case file contained copies of police reports confirming his misconduct. Just days before he confessed, an accuser had agreed to see him again while wearing a body wire and hidden camera. Police officers watched him put a vibrator on her inner thigh, then heard her tell him his hand was too close to her breast.

Baehr may also have violated the terms of his voluntary order, department records suggest. In September 2010 investigators reviewed a sample of his files and found none from that year contained the required statements from female patients saying they knew about the order. And less than half included statements from observers saying they'd been in the room when he treated women.

Even then the board didn't suspend Baehr's license. Department spokeswoman Katherine Koschnick wrote in an email: "Decisions are made on a case by case basis within the discretion of the attorneys and other individuals involved."

The Journal Sentinel's investigation found other cases in which the department and the chiropractic board did not revoke provider's licenses even when they had detailed evidence from police of assaults against patients.

In 2009, for example, the board gave Appleton chiropractor Keith Oudenhoven a suspension after he left the room in the middle of massaging a patient with multiple sclerosis, came back wearing only shorts and flip-flops, and then touched the woman's breasts and vulva even after she told him not to, according to a formal complaint to the department filed by the Appleton police department.

The complaint showed that Oudenhoven admitted he had an erection and that the patient alleged he asked her twice, "Can I show you how happy I am?"

According to state court records, Oudenhoven was charged with sexual assault and convicted of disorderly conduct as part of a plea bargain. Department documents show regulators first wanted him to surrender his license. But after his lawyer negotiated with a department attorney, Oudenhoven instead received an 18-month suspension and was given the option to return to practice if he sought treatment from a sex offender therapist and took continuing education classes. His license expired in 2010. Attempts to contact him were unsuccessful.

### **Advice not followed**

Unlike the previous cases, massage therapist Palmer did not have criminal charges related to sexual misconduct, state court records indicate. That left it up to the department and regulatory board to discipline him after he left one client's breasts exposed and asked to see her naked.

Department documents show its attorney ignored an expert adviser's recommendations on how to handle Palmer's case - twice. And it took the agency more than four years to discipline Palmer at all, giving him the chance to harm at least one other woman.

Wisconsin's licensing boards, which the governor appoints, include members of the public but consist mainly of industry professionals. Department investigators work with case advisers - board members who are industry professionals and consult on technical questions and recommend appropriate discipline.

When first consulted in 2003, the adviser assigned to Palmer's case called his treatment of the client an "abuse of power," according to department documents.

The adviser recommended that Palmer be observed for a month to be sure he draped clients correctly, and that his clients be asked to sign a document on proper draping. But the department did nothing in response.

When the client asked for an update almost two years after filing her complaint, department investigator Williams told her an attorney would pursue disciplinary action "when he can get to it," according to his written notes on file. Department lawyers, she was told, were busy processing even older and lower priority cases.

After another year, the department received a second written complaint. This client said Palmer had massaged her breasts so hard they felt bruised and sore the next day. Her complaint stated that when she told him, "That is too much," and covered herself with the sheet, he told her, "I'm not done yet," pulled the sheet down to just above her nipples, and continued.

Department files show this time the case adviser recommended Palmer no longer be allowed to massage women. But the department attorney assigned to Palmer's case did not take that route, calling such discipline "excessive" because "both clients consented to what happened."

The second client later told the attorney that she didn't feel comfortable telling Palmer to stop outright, department files indicate.

Anderson, head of the Dane County Rape Crisis Center, said that's a common problem: "There is a huge cultural inhibition in our society against women saying, 'I don't like that - please stop.' And predators are good at identifying people who are less likely to resist."

Another year passed. The second woman asked the department for an update. A week later, according to department files, the attorney sent Palmer a proposed stipulation and told him if he didn't sign it, the case would go to a formal hearing and he could be assessed thousands of dollars in legal costs.

Palmer signed the agreement. It had taken the department more than four years to reprimand him - a lesser punishment than a suspension. Palmer was fined \$875 and required to take six hours of continuing education classes.

Palmer's license expired in 2009. Neither he nor the department attorney, who has since retired, could be reached for comment.

## New protocols enacted

The chiropractic board did revoke the license of one provider who had sexual intercourse with a patient without her consent. But it took 20 years to do so, and it was for an unrelated offense.

Madison chiropractor Hans Jerosch was adjusting a woman in 1991 when he lunged on top of her, stripped off her pants, and assaulted her, ignoring her cries to stop, according to a Dane County circuit court criminal complaint.

"I guess I was a little bit aggressive with her," Jerosch told police. He did not return numerous calls requesting comment.

Jerosch later pleaded no contest to one count of fourth-degree sexual assault. Wisconsin's chiropractic board suspended his license for 30 days.

Jerosch returned to practice. In 2007, the department learned he'd been treating patients for nearly a year with an expired license, a chiropractic [board order](#) indicates. He'd also allegedly broken state laws requiring health providers to give patients copies of their records when requested.

When officials contacted Jerosch, he told them he had a brain condition that was affecting his memory, a fact his medical records later confirmed. But instead of stopping him from treating patients, regulators spent five months visiting and calling his office to confirm he was still practicing. Then they ordered him to cease until he renewed his license.

Jerosch continued to see patients, department records show. Finally, in 2008, the board issued an administrative injunction against him and revoked his right to renew it.

Asked why the department seldom revokes providers' licenses even when they assault patients, Gasper wrote that suspensions enable the board to monitor wrongdoers, while revocations "essentially terminate" that authority.

But it's illegal to practice in Wisconsin with a revoked license, and the department has the power to stop providers from doing so. Under state law, the department can issue an injunction, as it did in Jerosch's case. If they don't obey, the department can fine them up to \$10,000 per day.

The department has enacted protocols in the last 18 months, under the administration of Gov. Scott Walker, to ensure staff processes cases faster. Since January 2011, Gasper wrote, the department has cut a backlog of 1,435 cases in half.

It's possible such measures helped protect clients from Madison massage therapist Joao Frasier; the department summarily suspended his license in August 2011, one month before he was formally charged with sexually assaulting two female clients. Frasier plead guilty and was sentenced to six months in jail. The massage therapy board will decide whether to revoke his license when it next meets on Aug. 21.

But officials would not answer repeated questions about why the department in the past took months to years to resolve hundreds of disciplinary cases. In an email, Gasper

wrote, "It would not be appropriate for us to reflect on why these issues were not successfully addressed previously."

Meanwhile, Fond du Lac chiropractor Baehr's license remains limited. His board order still states he's not to treat women without an observer in the room, unless the patient herself decides to waive that protection.

*Ben Poston of the Journal Sentinel staff contributed to this report.*

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### **Criminal convictions**

The Journal Sentinel's investigation identified more than 250 chiropractors and massage therapists with criminal records. Most convictions related to operating a vehicle while intoxicated, but others included drug-related convictions, disorderly conduct, battery, and child abuse.

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### **Give your provider a checkup**

Here are some things you can do to check out your health care provider:

Run their names through the state court records database:

<http://wcca.wicourts.gov/index.xsl>

Check whether they've been disciplined by their credentialing board:

<http://online.drl.wi.gov/LicenseLookup/IndividualCredentialSearch.aspx>

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