



**MASSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD
Room 121C, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
July 22, 2014**

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 record of the actions of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-3)**
- B) Welcome New Members**
- C) Approval of Minutes of April 11, 2014 (4-7) and April 21, 2014 (8-9)**
- D) Legislative/Administrative Rule Matters:**
 - 1) Current and Future Rule Making and Legislative Initiatives
 - 2) Administrative Rules Report
 - 3) **9:10 A.M. – PUBLIC HEARING** – Clearinghouse Rule 14-041, Relating to Unprofessional Conduct **(10-23)**
- E) Administrative Updates**
 - 1) Appointments/Reappointments/Confirmations
 - a) Reappointment – Elizabeth Krizenesky **(24)**
 - b) Reappointment – Carole Ostendorf **(25)**
 - 2) Staff Updates
 - 3) DLSC Paperless Screening Panel Initiative **(26-32)**
 - a) **APPEARANCE** – Janie Brischke, Kelley Sankbeil, Kelley Foster, and Matthew Niehaus (Department Staff)
- F) Division of Legal Services and Compliance (DLSC) Remedial Education (33-37)**
 - 1) **APPEARANCE** – DLSC Staff
- G) Informational Items**

- H) Items Added After Preparation of Agenda:
- 1) Introductions, Announcements and Recognition
 - 2) Administrative Updates
 - 3) Education and Examination Matters
 - 4) Credentialing Matters
 - 5) Practice Matters
 - 6) Legislation/Administrative Rule Matters
 - 7) Liaison Report(s)
 - 8) Informational Item(s)
 - 9) Disciplinary Matters
 - 10) Presentations of Petition(s) for Summary Suspension
 - 11) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
 - 12) Presentation of Proposed Decisions
 - 13) Presentation of Interim Order(s)
 - 14) Petitions for Re-Hearing
 - 15) Petitions for Assessments
 - 16) Petitions to Vacate Order(s)
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Requests for Disciplinary Proceeding Presentations
 - 19) Motions
 - 20) Petitions
 - 21) Appearances from Requests Received or Renewed
 - 22) Speaking Engagement(s), Travel, or Public Relation Request(s)

I) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

J) Presentation and Deliberation on Proposed Stipulations, Final Decisions and Orders by the Division of Legal Services and Compliance (DLSC):

- 1) John B. Porter – 12 MTB 012 (38-42)
 - a) Case Advisor: Barbara Yetter

K) Presentation and Deliberation on Administrative Warnings

- 1) 13 MAB 011 (T.R.F.) (43-44)

L) Case Status Report (45)

M) Case Closing(s)

- 1) 13 MAB 003 (R.S.N.) (46-48)

N) Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petition(s) for Summary Suspensions
- 7) Proposed Stipulations, Final Decisions and Orders

- 8) Administrative Warnings
- 9) Proposed Decisions
- 10) Matters Relating to Costs
- 11) Complaints
- 12) Case Closings
- 13) Case Status Report
- 14) Petition(s) for Extension of Time
- 15) Proposed Interim Orders
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

O) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

P) Open Session Items Noticed Above not Completed in the Initial Open Session

Q) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

R) Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

**MASSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD
WEB/VIRTUAL MEETING MINUTES
April 11, 2014**

PRESENT VIA GOTOMEETING: John Anderson; Elizabeth Krizenesky; Carole Ostendorf;
Cindy Spitz; Barbara Yetter

ABSENT: None

STAFF: Tom Ryan, Executive Director; Gretchen Mrozinski, Legal Counsel; Daniel Agne,
Bureau Assistant; and other Department staff

CALL TO ORDER

Elizabeth Krizenesky, Chair, called the meeting to order at 1:00 P.M. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

MOTION: Cindy Spitz moved, seconded by Carole Ostendorf, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Carole Ostendorf moved, seconded by Cindy Spitz, to approve the minutes of August 13, 2013 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

ELECTION OF OFFICERS

MOTION: Cindy Spitz moved, seconded by John Anderson, to retain the current slate of Officers for 2014. Motion carried unanimously.

The Board voted unanimously in an election to retain the current slate of Officers for 2014.

2014 ELECTION RESULTS	
Board Chair	Elizabeth Krizenesky
Vice Chair	Carole Ostendorf
Secretary	Barbara Yetter

APPOINTMENT OF LIAISONS, ALTERNATES, AND DELEGATES

MOTION: Barbara Yetter moved, seconded by Cindy Spitzza, to approve the following appointments made by the Chair:

- a) **Credentialing Liaison:** **John Anderson;**
(Cindy Spitzza as the Alternate)
- b) **DLSC Liaison** **John Anderson;**
(Barbara Yetter as the Alternate)
- c) **Monitoring Liaison:** **Barbara Yetter;**
(John Anderson as the Alternate)
- d) **Education & Exams Liaison:** **Carole Ostendorf;**
(John Anderson as the Alternate)
- e) **Legislative Liaison** **Barbara Yetter**
- f) **Travel Liaison:** **Elizabeth Krizenesky;**
(Carole Ostendorf as the Alternate)
- g) **Website Liaison** **Elizabeth Krizenesky**
- h) **Rules Liaison:** **Elizabeth Krizenesky;**
(Carole Ostendorf as the Alternate)
- i) **Professional Assistance Procedure Liaison:** **Barbara Yetter;**
(John Anderson as the Alternate)
- j) **Screening Panel:** **Carole Ostendorf; Cindy Spitzza; Barbara Yetter;**

Motion carried unanimously.

DELEGATED AUTHORITY MOTIONS

MOTION: Cindy Spitzza moved, seconded by Barbara Yetter, that the Board delegates authority to the Chair (or order of succession) to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair delegates the authority to a Department representative to sign the name of the Chair (or order of succession), or any and all Board members, on documents as necessary. Motion carried unanimously.

MOTION: Carole Ostendorf moved, seconded by Barbara Yetter, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

MOTION: Barbara Yetter moved, seconded by John Anderson, to adopt the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

ADOPTION OF RULEMAKING ORDER CR 13-055

MOTION: John Anderson moved, seconded by Carole Ostendorf, to approve the Adoption Order for Clearinghouse Rule 13-055. Motion carried unanimously.

MOTION: Barbara Yetter moved, seconded by Cindy Spitzza, to authorize the Executive Director to sign the Adoption Order for Clearinghouse Rule 13-055. Motion carried unanimously.

165-MTBT 5 UNPROFESSIONAL CONDUCT – REVIEW OF INITIAL DRAFT

MOTION: Cindy Spitzza moved, seconded by John Anderson, to delegate Barbara Yetter and Elizabeth Krizenesky to approve the revisions to 165-MTBT 5, relating to Unprofessional Conduct, as amended during the April 11, 2014 Board meeting, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

FEDERATION OF STATE MASSAGE THERAPY BOARDS (FSMTB) MATTERS

REPORT ON THE FSMTB 2013 ANNUAL MEETING – JOHN ANDERSON

MOTION: Barbara Yetter moved, seconded by Cindy Spitzza, to authorize John Anderson or an alternate selected by the Chair from the Board or the Department in the event the Delegate is unavailable, to attend and to represent the Board as its delegate at the FSMTB 2014 Annual Meeting, October 2-4 in Tucson, AZ. Motion carried unanimously.

CLOSED SESSION

MOTION: Cindy Spitzza moved, seconded by Barbara Yetter, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: John Anderson - yes; Elizabeth Krizenesky - yes; Carole Ostendorf - yes; Cindy Spitzza - yes; Barbara Yetter - yes. Motion carried unanimously.

The Board convened into Closed Session at 3:08 P.M.

Carole Ostendorf left the meeting at 3:09 P.M.

RECONVENE TO OPEN SESSION

MOTION: Cindy Spitz moved, seconded by John Anderson, to reconvene in Open Session at 3:22 P.M. Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

13 MAB 012 SHUYING DING

The Board did not have a quorum sufficient to act in the above matter. No action was taken.

CASE CLOSINGS

MOTION: Cindy Spitz moved, seconded by Barbara Yetter, to close case 12 MAB 013 (E.L.S.) for no violation (NV). Motion carried unanimously.

MOTION: Barbara Yetter moved, seconded by Cindy Spitz, to close case 13 MAB 002 (R.A.S.) for no violation (NV). Motion carried unanimously.

MOTION: Cindy Spitz moved, seconded by Elizabeth Krizenesky, to close case 13 MAB 005 (X.Z.) for no violation (NV). Motion carried unanimously.

MOTION: Elizabeth Krizenesky moved, seconded by John Anderson, to close case 12 MTB 017 (L.L.M.) for prosecutorial discretion (P2). Motion carried unanimously.

MOTION: Barbara Yetter moved, seconded by Cindy Spitz, to close case 13 MAB 008 (J.W.) for prosecutorial discretion (P2). Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Cindy Spitz moved, seconded by John Anderson, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Barbara Yetter moved, seconded by Cindy Spitz, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Barbara Yetter moved, seconded by John Anderson, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:28 P.M.

**MASSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD
WEB/VIRTUAL MEETING MINUTES
April 21, 2014**

PRESENT VIA GOTOMEETING: John Anderson; Elizabeth Krizenesky; Carole Ostendorf;
Cindy Spitz; Barbara Yetter

STAFF: Tom Ryan, Executive Director; Gretchen Mrozinski, Legal Counsel; Daniel Agne,
Bureau Assistant; and other Department staff

CALL TO ORDER

Elizabeth Krizenesky, Chair, called the meeting to order at 8:00 A.M. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

MOTION: Cindy Spitz moved, seconded by John Anderson, to adopt the agenda as published. Motion carried unanimously.

CLOSED SESSION

MOTION: Carole Ostendorf moved, seconded by Barbara Yetter, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: John Anderson - yes; Elizabeth Krizenesky - yes; Carole Ostendorf - yes; Cindy Spitz - yes; Barbara Yetter - yes. Motion carried unanimously.

The Board convened into Closed Session at 8:02 A.M.

RECONVENE TO OPEN SESSION

MOTION: Barbara Yetter moved, seconded by John Anderson, to reconvene in Open Session at 8:21 A.M. Motion carried unanimously.

PROPOSED STIPULATIONS, FINAL DECISIONS, AND ORDERS

**13 MAB 012
SHUYING DING**

MOTION: Barbara Yetter moved, seconded by Cindy Spitzza, to adopt the Findings of Fact, Conclusions of Law, Stipulation, and Order, in the matter of 13 MAB 012 – Shuying Ding. Motion carried unanimously.

**13 MAB 010
CARNARDO D. JOHNSON**

MOTION: Barbara Yetter moved, seconded by Cindy Spitzza, to adopt the Findings of Fact, Conclusions of Law, Stipulation, and Order, in the matter of 13 MAB 010 – Carnardo D. Johnson. Motion carried unanimously.

PRESENTATION AND DELIBERATION ON ADMINISTRATIVE WARNINGS

The matter of DLSC case number 13MAB 011 (T.R.F.) was tabled.

**OPEN SESSION ITEMS NOTICED ABOVE NOT COMPLETED
IN THE INITIAL OPEN SESSION**

MOTION: Carole Ostendorf moved, seconded by Barbara Yetter, to authorize a Department Representative to sign Stipulations, Final Decisions, and Orders adopted by the Board today on behalf of the Chair. Motion carried unanimously.

**VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION,
IF VOTING IS APPROPRIATE**

MOTION: Cindy Spitzza moved, seconded by Barbara Yetter, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

ADJOURNMENT

MOTION: Cindy Spitzza moved, seconded by Barbara Yetter, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 8:23 A.M.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Shawn Leatherwood, Administrative Rule Coordinator		2) Date When Request Submitted: July 9, 2014 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date:</small> ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: July 22, 2014	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Public Hearing on Clearinghouse Rule 14-041 relating to unprofessional conduct Review and respond to Clearinghouse Report and Public Hearing comments	
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? <input type="checkbox"/> Yes (<u>Fill out Board Appearance Request</u>) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Hold Public Hearing at 09:10 AM Discuss any public hearing comments. Review, discuss and respond to any Clearinghouse comments.			
11) Authorization			
<i>Shawn Leatherwood</i>		<i>July 9, 2014</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 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 Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 14-041

AN ORDER to renumber MTBT 5.02; to amend MTBT 6.02 (2) (am); to repeal and recreate MTBT 5.01; and to create MTBT 5.02 and 5.04, relating to unprofessional conduct.

Submitted by **DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

06-16-2014 RECEIVED BY LEGISLATIVE COUNCIL.

07-08-2014 REPORT SENT TO AGENCY.

SG:CB

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 14-041

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

2. Form, Style and Placement in Administrative Code

- a. Because s. 1.01 (7) (b), Manual, specifies that substantive provisions should not be included in definitions, the board may wish to clarify the actual prohibition against unprofessional conduct either by additional rule text or by statutory reference.
- b. Generally, the organizational style of s. MTBT 5.02 should conform to s. 1.03, Manual.
- c. In s. MTBT 5.02 (2), “s.” should be replaced by “ss.”.
- d. Throughout s. MTBT 5.02, internal cross-references such as “paragraph” should be reviewed. In particular, it appears the references to “paragraph” often may be more appropriately referred to as “subsection”.
- e. Section MTBT 5.02 (11) appears to restrict impairment to use of “habit-forming” drugs. If all drugs causing impairment are to be included, “habit-forming” should be stricken.
- f. Section MTBT 5.02 (15) (a) should read “Sexual nature of contact or conduct shall be determined...” to eliminate motivation as an element and specify that the totality of circumstances is to be used in all cases, if that is the intent of the rule. Additionally, in s. MTBT 5.02 (15) (intro.), and elsewhere in the proposed rule, use of “may” and “shall” should be reviewed for consistency and alignment with the board’s intent. Also, s. MTBT 5.02 (15) (d) does not appear to relate to pars. (a) to (c), and should be placed elsewhere in the rule text.
- g. Section MTBT 5.02 (19) should enumerate specific standards, if such standards exist.

- h. Section MTBT 5.02 (21) contains two unnecessary commas in the last sentence.
- i. Section MTBT 5.02 (24) should replace “whether” with “whether or not” or “if”, depending upon intent. The phrase “or whether or not” should be replaced by “and whether or not”.
- j. In s. MTBT 5.04, the text regarding audits should be clarified. Does the board intend to conduct audits of all licensees, or a random audit of any licensee?

4. Adequacy of References to Related Statutes, Rules and Forms

- a. Section MTBT 5.02 (1) should specify which sections of ch. 448, Stats., apply to massage therapists and bodywork therapists.
- b. Section MTBT 5.02 (2) is vague with regard to the standard of proof for determining that there has been unprofessional conduct. “Being convicted of” would be a standard of proof of conduct that constitutes a violation. Section MTBT 5.02 (25) contains a similar issue.
- c. In s. MTBT 5.02 (23), the board should provide a cross-reference to the specific rules or statutes relating to continuing education.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In the section of the rule analysis titled, “Analysis and supporting documents...”, the section should begin with “These”.
- b. In s. MTBT 5.02 (7), “False” should not be capitalized.
- c. Section MTBT 5.02 (8) and (16) should read “Failing to maintain...” and “Falsifying client records.” for consistency of tense within the section.

STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	MESSAGE THERAPY AND
MESSAGE THERAPY AND	:	BODYWORK THERAPY
BODYWORK THERAPY AFFILIATED	:	AFFILIATED CREDENTIALING
CREDENTIALING BOARD	:	BOARD
	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board, to renumber MTBT 5.02; to amend MTBT 6.02 (2) (am); to repeal and recreate MTBT 5.01 and to create MTBT 5.02 and 5.04 relating to unprofessional conduct.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 460.04 (2)(a), 460.14 (2) (a) to (j), Stats.

Statutory authority:

Sections 15.085 (5) (b), 227.11 (2) (a), and 460.04 (2) (a), Stats.

Explanation of agency authority:

Pursuant to ss. 15.085 (5) (b), and 227.11 (2) (a), Stats., the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board (Board) is generally empowered by the legislature to promulgate rules that will provide guidance within the profession and rules that interpret the statutes it enforces or administers. Section 460.04 (2) (a), Stats., specifically empowers the Board to draft rules regarding the professional conduct of licensees practicing massage therapy or bodywork therapy. This proposed rule seeks to carry out this mandate by revising the rules related to unprofessional conduct.

Related statute or rule:

None.

Plain language analysis:

The passage of 2009 Wisconsin Act 355 transformed the Massage Therapy and Bodywork Council into the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board (Board). The Act granted the newly formed Board rule-making authority. Pursuant to that authority, the Board reviewed its unprofessional conduct rules and decided the rules were outdated and needed updating. The modernization of the rules will not result in a significant policy change but rather a further clarification of the ethical goals of the profession.

SECTION 1. creates a section identifying the authority to promulgate the proposed rules.

SECTION 2. rennumbers MTBT 5.02.

SECTION 3. modernizes the definition of unprofessional conduct for massage therapist and bodywork therapists.

SECTION 4. creates a provision regarding auditing continuing education requirements.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: The grounds for unprofessional conduct for Illinois licensed massage therapists and bodywork therapists are governed by statute, ILL. COMP. STAT. 225/57. The rules are similar to current Wisconsin unprofessional conduct rules in that they are comprehensive ranging from prohibitions against false advertising to inability to practice with reasonable judgment and skill.

Iowa: The Iowa Administrative Code sets forth the grounds for discipline of massage therapists in 645 IAC 134.2. The rules are similar to Wisconsin in that they cover a variety of topics; however the Iowa rules focus primarily on fraudulent behavior such as fraud in procuring a license, untruthful or improbable statements in advertising, and acceptance of any fee by fraud.

Michigan: Prohibited conduct of massage therapists as set forth in Michigan Administrative Code R 338.723, is limited to eight prohibitions. The prohibitions focus primarily on exceeding the boundaries of a professional relationship with clients such as taking on a professional role when a personal, scientific, legal, financial, or other relationship impairs the exercise of professional discretion or being involved in a dual relationship with a current or former client.

Minnesota: In Minnesota massage therapy and bodywork therapy are identified as complementary and alternative health care practices, Minn. Stat. §146A.01. Those who conduct alternative health care practices are regulated by statute, Minn. Stat. §146A.08. The statute identifies prohibited conduct covering a variety of topics including:

prohibition against sexual contact with clients, adjudication as mentally incompetent and fraudulent billing practices.

Summary of factual data and analytical methodologies:

The Board reviewed its current unprofessional conduct rules and decided that the rules needed to be updated to conform to current practice within the profession. No other factual data or analytical methodologies were used. The Board ensures the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

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

These proposed rules do not have an economic impact on small businesses as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

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

Comments may be submitted to Shawn Leatherwood, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366 Madison, WI 53708-8366, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before July 22, 2014 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MTBT 5.01 is repealed and recreated to read:

MTBT 5.01 Authority. The Definitions of this chapter are adopted by the board pursuant to the authority delegated by ss. 15.085 (5) (b) and 460.04 (2) (a), Stats., to establish the standards of ethical conduct for massage therapists and bodywork therapists.

SECTION 2. MTBT 5.02 is renumbered MTBT 5.03.

SECTION 3. MTBT 5.02 is created to read:

MTBT 5.02 Unprofessional conduct. The term “unprofessional conduct” is defined as violating, aiding, abetting, or conspiring to engage in any of the following:

1. Violating s. 460.14 (2) (a) to (j), Stats., other provisions of ch. 448, Stats., or any provision of a board order.
2. Violating or being convicted of any of the following: s. 940.22, 940.225, 944.15, 944.17, 944.30 (1m), 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095, and 948.10, Stats.
3. Engaging in fraud, misrepresentation or deceit in applying for or procuring a license to practice massage therapy or bodywork therapy, in connection with applying for or procuring periodic renewal of a license, or in otherwise maintaining a license.
4. Engaging in any act of fraud, deceit, or misrepresentation, including acts of omission to the board or any person acting on the board’s behalf, including department of safety and professional services personnel.
5. Employing illegal or unethical business practices, including either of the following:
 - (a) Fraud, deceit, or misrepresentation in obtaining or attempting to obtain any fee or third-party reimbursement.
 - (b) Engaging in uninvited, in-person solicitation of actual or potential clients, who because of their particular circumstances are vulnerable to undue influence.
6. Knowingly, negligently, or recklessly making any statement, written or oral, in the course of practicing massage therapy, which is likely to deceive, defraud, mislead or create an unacceptable risk of harm to a client, the public, or both.
7. Engaging in False, misleading, or deceptive advertising.
8. Failure to maintain accurate and timely records necessary for the continuity of a client’s massage therapy or bodywork therapy treatment. Records are to be maintained for a period of at least 5 years.

9. Performing any act constituting the practice of massage therapy or bodywork therapy on any client without the client's informed consent or after the client has withdrawn informed consent, whether verbally or in writing, or either of the following:

(a) Failure to document informed consent.

(b) Failure to inform the client that any act of massage therapy may or will be performed by unlicensed personnel.

10. Any practice or conduct that falls below the standard of minimal competence within the profession that results in unacceptable risk of harm to the patient, regardless of whether injury results.

11. Practicing as a massage therapist or bodywork therapist when physical or mental abilities are impaired by the use of controlled substances or other habit-forming drugs, chemicals or alcohol, or by other causes.

12. Practicing as a massage therapist or bodywork therapist with a mental or physical condition that impairs the ability of the licensee to practice within the standard of minimal competence or without exposing a client to an unacceptable risk of harm.

13. Practicing beyond the scope of massage therapy or bodywork therapy.

14. Divulging any information that a client gives in confidence to the licensee or any other information that the licensee obtains about a client in the course of practicing massage therapy or bodywork therapy that a reasonable person in the client's position would want kept confidential unless the information is otherwise required by law to be disclosed or the client specifically authorizes the disclosure of the information.

15. Engaging in sexually explicit conduct, sexual contact, exposure, gratification or other sexual behavior with or in the presence of a client, a client's immediate family member, or a person responsible for the client's welfare. For the purposes of this subsection all of the following may apply:

(a) Sexual motivation may be determined from the totality of the circumstances and is presumed when the massage therapist or bodywork therapist has contact with a client's intimate parts without legitimate professional justification for doing so.

(b) An adult client shall continue to be considered a client for 6 months after the termination of professional services.

(c) If a client is a minor, he or she shall continue to be considered a client for 2 years after the termination of services or for 2 years after the client reaches the age of majority, whichever is longer.

(d) It is a violation of this paragraph for a massage therapist or bodywork therapist to engage in any sexual contact or conduct with or in the presence of a client or former client who lacks the ability to consent for any reason, including age, medication, or psychological or cognitive disability.

16. Falsification of client records.

17. Failing to provide access to client records when requested by the board or the board's representative.

18. After a request by the board, failing to cooperate in a timely manner with the board's investigation of complaints filed against the licensee. There is a rebuttable presumption that a licensee who takes longer than 30 calendar days to respond to a request of the board has not acted in a timely manner under this paragraph.

19. Failing to comply with universal precautions for preventing transmission of infectious diseases by failing to provide clean clothing, linens and equipment according to the standards recognized by the massage therapy and bodywork therapy profession.

20. Failing to provide draping and treatment that ensures the safety and privacy of a client.

21. Permitting or assisting any person to perform acts constituting massage therapy or bodywork therapy without sufficient qualifications, necessary credentials, adequate informed consent, or adequate supervision. The licensed massage therapist or bodywork therapist is responsible for determining whether general, one-to-one, or on-premises supervision is necessary to protect the client from an unacceptable risk of harm. The licensed massage therapist or bodywork therapist retains responsibility for delegated or supervised acts, unless, the board determines that the delegate knowingly and willfully violated the supervisor's direction or instruction.

22. Failing to inform a client about contraindications of massage therapy or bodywork therapy.

23. Failing to complete continuing education requirements within the time period established by law.

24. Having an adverse action against a credential pertaining to the practice of massage therapy or bodywork therapy by any agency of this or another state, or by an agency or authority within the federal government. This paragraph applies whether the adverse action results in a temporary or permanent limitation, restriction, suspension or revocation, or whether or not the adverse action is accompanied by findings of negligence or unprofessional conduct.

25. Violation or conviction of any federal or state law or rule, including criminal law, which is substantially related to the practice of massage therapy or bodywork therapy. For the purposes of this subsection the following may apply:

(a) Except as otherwise provided by law, a certified copy of a relevant decision by a state or federal court or agency charged with making legal determinations relevant to this paragraph is conclusive evidence of its findings of facts and conclusions of law.

(b) Under this paragraph, the board has the burden of proving that the act is substantially related to the practice of massage therapy or bodywork therapy.

26. Failure to report to the board any incident in which the licensee has direct knowledge of reasonable cause to suspect that a massage therapist or bodywork therapist has committed any unprofessional, incompetent, or illegal act in violation of state or federal statute, administrative rule, or orders of the board. Reports shall be made within the time necessary to protect clients from further unacceptable risk of harm.

27. Failing to display his or her license in his or her place of business or practice so that it can easily be seen and read by the public. In the case of a mobile practice, a licensee is required to be able to present his or her license for public display.

SECTION 4. MTBT 5.04 is created to read:

MTBT 5.04 Audits. The board may conduct a random audit of all licensees on a biennial basis for compliance with continuing education requirements.

SECTION 5. MTBT 6.02 (2) (am) is amended to read:

MTBT 6.02 (2) (am) A person holding a temporary license shall meet face-to-face with the supervising massage therapist or bodywork therapist as necessary to ensure that the temporary licensee performs competently, including creation and maintenance of records as required in ~~s. MTBT 5.01 (8)~~ s. MTBT 5.02 (8).

SECTION 6. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Massage Therapy and Bodywork Therapy
Affiliated Credentialing Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

MTBT 5

3. Subject

Unprofessional Conduct

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The Massage Therapy and Bodywork Therapy Board (Board) recently reviewed its unprofessional conduct rules and determined that the rules were outdated. The Board decided to modernize the rules by making the language consistent with current practice within the profession. The promulgation of the proposed rules will not result in a significant policy change but rather a further clarification of the ethical goals of the profession.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The rule was posted on the Department of Safety and Professional Service's website for 14 days in order to solicit comments from businesses, associations representing businesses, local governmental units and individuals that may be affected by the rule. No comments were received.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Updating the unprofessional conduct rules will provide greater guidance on ethical issues facing licensed massage therapists and bodywork therapists.

14. Long Range Implications of Implementing the Rule

Consistent application of the proposed rule will act as a deterrent to unethical conduct amongst licensed massage therapists and bodywork therapists.

15. Compare With Approaches Being Used by Federal Government

None.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: The grounds for unprofessional conduct for Illinois licensed massage therapists and bodywork therapists are governed by statute, ILL. COMP. STAT. 225/57, and not rule as in Wisconsin. The rules are similar to current Wisconsin unprofessional conduct rules in that they are comprehensive ranging from prohibitions against false advertising to inability to practice with reasonable judgment and skill.

Iowa: The Iowa Administrative Code sets forth the grounds for discipline of massage therapists in 645 IAC 134.2. The rules are similar to Wisconsin in that they cover a variety of topics; however the Iowa rules focus primarily on fraudulent behavior such as fraud in procuring a license, untruthful or improbable statements in advertising, and acceptance of any fee by fraud.

Michigan: Prohibited conduct of massage therapists as set forth in Michigan Administrative Code R 338.723, is limited to eight prohibitions. The prohibitions focus primarily on exceeding the boundaries of a professional relationship with clients such as taking on a professional role when a personal, scientific, legal, financial, or other relationship impairs the exercise of professional discretion or being involved in a dual relationship with a current or former client.

Minnesota: In Minnesota massage therapy and bodywork therapy are identified as complementary and alternative health care practices, Minn. Stat. §146A.01. Those who conduct alternative health care practices are regulated by statute, Minn. Stat. §146A.08. The statute identifies prohibited conduct covering a variety of topics including: prohibition against sexual contact with clients, adjudication as mentally incompetent and fraudulent billing practices

17. Contact Name

Shawn Leatherwood

18. Contact Phone Number

608-261-4438

This document can be made available in alternate formats to individuals with disabilities upon request.



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

GOVERNOR'S APPOINTMENT

NAME: Ms. Elizabeth Krizenesky

MAILING ADDRESS: [REDACTED]
[REDACTED]

E-MAIL ADDRESS: [REDACTED]

RESIDES IN: Neenah, WI

TELEPHONE: [REDACTED]
[REDACTED]

OCCUPATION: Betsy Krizenesky, WCMT, LLC

APPOINTED TO: Massage Therapy and Bodywork Therapy
Affiliated Credentialing Board
Massage/Bodywork Therapist 1

TERM: A term to expire July 1, 2018

SUCCEEDS: Herself

SENATE CONFIRMATION: Required

DATE OF APPOINTMENT: July 1, 2014

DATE OF NOMINATION: January 7, 2014



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

GOVERNOR'S APPOINTMENT

NAME: Ms. Carol Ostendorf

MAILING ADDRESS: [REDACTED]
[REDACTED]

E-MAIL ADDRESS: [REDACTED]

RESIDES IN: West Allis, WI

TELEPHONE: [REDACTED]
[REDACTED]

OCCUPATION: Chair
Physical Therapist Assistant Program
[REDACTED] University

APPOINTED TO: Massage Therapy and Bodywork Therapy
Affiliated Credentialing Board
Public Member

TERM: A term to expire July 1, 2018

SUCCEEDS: Herself

SENATE CONFIRMATION: Required

DATE OF APPOINTMENT: July 1, 2014

DATE OF NOMINATION: February 3, 2014

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Matthew C. Niehaus, DSPS WebMaster		2) Date When Request Submitted: 05/16/14 Items will be considered late if submitted after 4:30 p.m. on the deadline date: <ul style="list-style-type: none"> ▪ 8 business days before the meeting for paperless boards ▪ 14 business days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Massage Therapy & Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 07/22/14	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? DLSC Paperless Screening Panel Initiative - APPEARANCE	
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? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Jane Brischke: Program & Policy Analyst – Advanced Cortney Keo: Records Management Supervisor Kelley Foster: Medical Examining Board Intake Specialist Matthew C. Niehaus: DSPS WebMaster The above staff will be appearing before the Board to present the DLSC Paperless Screening Panel Initiative.			
11) Authorization			
		04/07/14	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 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 Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

BOARD APPEARANCE REQUEST FORM

Appearance Information

Board Name: Massage Therapy and Affiliated Credentialing Board

Board Meeting Date: 07/22/14

Person Submitting Agenda Request: Matthew C. Niehaus: DSPP WebMaster

Persons requesting an appearance:

Jane Brischke: Program & Policy Analyst – Advanced

Cortney Keo: Records Management Supervisor

Kelley Foster: Medical Examining Board Intake Specialist

Matthew C. Niehaus: DSPP WebMaster

Reason for Appearance:

The above DSPP staff are appearing before the Board to present the DLSC Paperless Screening Panel.

Medical Examining Board > Legal Services and Compliance > All Documents >

This is what DSPP Intake Staff will see when they upload your screening panel files.

Medical Examining Board

Search this site...

- Libraries
- Introduction & Overview Materials
- Board Materials
- Legal Services and Compliance**
- Credentialing
- Board Member Folders
- Site Pages
- Lists
- Calendar
- Board Officers & Liaisons
- Examinations and Screening Panel Members
- Discussions

<input type="checkbox"/>	Type	Name	Modified	<input type="checkbox"/>	Modified By
		Carolyn Ogland Vukich	9/24/2013 3:00 PM		Niehaus, Matt - DSPP
		Gene Nusser	9/24/2013 3:00 PM		Niehaus, Matt - DSPP
		Greg Collins	9/24/2013 3:00 PM		Niehaus, Matt - DSPP
		Hubert Cumberlanddale	11/11/2013 12:14 PM		Niehaus, Matt - DSPP
		Jim Barr	9/24/2013 3:00 PM		Niehaus, Matt - DSPP
		Jude Genereaux	9/24/2013 3:00 PM		Niehaus, Matt - DSPP
		Kenneth Simons	9/24/2013 3:00 PM		Niehaus, Matt - DSPP
		Mary Jo Capodice	9/24/2013 3:00 PM		Niehaus, Matt - DSPP
		Rodney Erickson	9/24/2013 3:01 PM		Niehaus, Matt - DSPP
		Russell Yale	9/24/2013 3:01 PM		Niehaus, Matt - DSPP
		Screening Attorney	9/24/2013 3:23 PM		Niehaus, Matt - DSPP
		Sridhar Vasudevan	9/24/2013 3:01 PM		Niehaus, Matt - DSPP
		Suresh Misra	9/24/2013 3:01 PM		Niehaus, Matt - DSPP
		Timothy Swan	9/24/2013 3:01 PM		Niehaus, Matt - DSPP
		Timothy Westlake	9/24/2013 3:01 PM		Niehaus, Matt - DSPP

Legal Services and Compliance - All Documents - Windows Internet Explorer

https://webapps.wi.gov/sites/dsps/boards/medexam/Legal%20Services%20Documents.aspx

File Edit View Favorites Tools Help

Convert Select

Favorites DOA Printing Website Admin Time Reporting Statutes Boards SharePoint Old Site HP Service Manager Login

Legal Services and Complian... Legal Services and Compl... x

Page Safety Tools

Hubert Cumberlande

Library Tools

Site Actions Browse Documents Library

Medical Examining Board > Legal Services and Compliance > All Documents

Medical Examining Board Search this site...

Libraries	Type	Name	Modified	Modified By
Introduction & Overview Materials	Folder	Hubert Cumberlande	11/11/2013 12:14 PM	Niehaus, Matt - DSPS

Board Materials

Legal Services and Compliance

Site Pages

Lists

Calendar

Board Officers & Liaisons

Examinations and Screening Panel Members

Discussions

This is what you will see when you log in to check your screening panel documents. Much like your Board Member folder, this folder is visible only to you and the DSPS staff member responsible for adding the files for your review.

Files will be cleared monthly and password protected for added security.

Bookmarks will be added and comments will be enabled, much like your agenda packets.

One set of Medical Examining Board
Screening Panel Materials
(Four of these were mailed every month)



30

PAPERLESS SCREENING PANELS

TOTAL POTENTIAL SAVINGS

- ★ **\$2,397.57 printing + \$2,582.30 shipping + \$10,200 Canon IR 7086 + \$22,509.24 staff time = \$37,689.11 ANNUALLY¹**
- ★ **In addition to the monetary savings:**
 - ✓ This process introduces enhanced security for screening panel documents. Under the new system, these documents are carefully controlled and protected by multiple layers of authentication.
 - ✓ Environmental impact: save 90 trees annually, landfill space, kilowatts of energy
 - ✓ Real time updates and delivery of documents.
 - ✓ Document management – ability to recreate misplaced/lost documents, locate/search/distribute files quickly and efficiently

1. COPIER/PAPER/MAILING (postage, envelopes) SAVINGS

- ✓ DLSC currently obtains paper for \$33.40 per box. Each box contains 5,000 sheets of paper. Each individual sheet of paper thus costs DSPS \$0.00668.
 - 100 sheets of paper weighs approximately 1 pound, meaning it costs \$0.668 to purchase one pound of paper.
 - Toner costs are covered by our lease on the printing equipment.
 - Print jobs after we surpass the 40,000 monthly page limit permitted in our lease cost us \$0.50 extra per 100 pages
- ✓ Adding in one internal packet for screening panel attorneys every month, DLSC printed approximately 206,500 pages of paper for Screening Panels over 210 calendar days (May 9 – November 26), not factoring in any erroneous print jobs.
- ✓ From May 9 to November 26, DLSC spent \$1,008.05 to ship Tyvek envelopes for large screening packets.
- ✓ \$51.52 is spent on regular envelopes for mailings that are light enough to send through the postal service. Mailing these envelopes costs \$414.96 in postage annually. \$365.82 is spent purchasing white Tyvek envelopes that must be sent through a courier service, for a total of \$832.30 annually on miscellaneous mailing materials.
- ✓ Based upon the above data, shipping costs for screening panels add up to \$2,582.30 annually, with estimated annual printing costs of \$2,397.57.

2. STAFF TIME/SAVINGS

- ✓ DLSC staff currently spends an average of 12 hours per Medical Examining Board screening panel packet copying and mailing. The average intake staff salary with fringe is \$24.44 per hour which costs out to \$293.28 of staff time per packet. This results in a \$7,038.72 expenditure in staff time annually. As the paperless scanning process only necessitates one run through the scanner, this will cut down the amount of time spent at the copier to ¼ its current level, a \$5,279.04 savings.
- ✓ Other Boards typically take considerably less time to prepare their screening panel packets. Assuming an average of 5 hours of staff processing time per packet, with 188 meetings that are not representative of the Medical Examining Board per year², there is an additional staff time savings of \$17,230.20 for a grand total of \$22,509.24 in staff expenses that can be reallocated.
- ✓ The time currently spent compiling the printed packets for mailing may be shifted to improving the quality of the materials through bookmarking, page numbering, and running text recognition. This will aid the screening panel in its efforts, potentially saving time screening panel attorneys spend in meetings with screening panel members.

3. OTHER FACTORS

- ✓ By drastically reducing the amount of time needed for DLSC staff to physically stand at the copier and as it is possible to print to a copier that is being used to scan documents, we could cease leasing one of our two DLSC copiers. We currently lease the more expensive copier Canon IR 7086 (Mickey) on a 6-month basis for \$850/month (\$10,200 annually.)

¹ This is achieved with virtually no cost, as the SharePoint Site has already been purchased for the Policy Development paperless initiative.

² 332 screening panel meetings are scheduled for 2014. Approximately 40% of all screening panel meetings from 2013 were cancelled due to lack of business, meaning there would be 200 total meetings. The estimate of 5 hours per packet (and 12 hours per Medical Examining Board packet) was taken from interviews with DLSC staff.

Initiatives for Improving Service

Division of Legal Services & Compliance – Paperless Screening Panels

- ✓ Drives Wisconsin to the cutting edge of state government technology solutions
- ✓ No potential for loss or damage in the mail
- ✓ Text recognition
 - Adobe can recognize typed (and usually handwritten) notes and allow for searching for specific words and phrases
- ✓ Enlarge text
 - Ability to enlarge the document for easier readability
- ✓ Accessibility of documents
 - No need to transport large files to screen materials
 - SharePoint is accessible anywhere you have a computer, tablet or smart phone and the internet
- ✓ Convenient notes and comments
 - Members have the ability to create a document in Microsoft Word directly from the SharePoint site to keep track of notes
 - This document is also accessible anywhere you can use SharePoint
 - Make comments directly in your electronic copy of each complaint on specific pages or places
 - Easy access to all comments, or specific comments, via a list in Adobe
- ✓ Pages will be numbered and bookmarked so members may easily reference points in the document
- ✓ Transition process
 - First sets of screening materials will be sent via **paper** and **electronic** formats, to ease the transition to paperless panels
- ✓ Financial impact
 - Paperless screening will save approximately \$40,000 on paper, ink, printer maintenance and shipping costs annually (\$240,000 by 2020)
 - There is also time savings in preparing, sorting, copying and mailing
 - Elimination of costs related to destroying screening panel documents
 - Reduction of file space requirements
- ✓ Technical support
 - Intake staff members are available to answer any questions you have regarding paperless screening
 - Kelley Foster – Intake for MED & MED Affiliates
(608) 267-1818 kelly.foster@wi.gov
 - DLSC staff will follow-up in the months after implementation to obtain feedback and input on the paperless screening process

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Daniel Agne, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 7/7/14 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting for paperless boards	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 7/22/14	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? DLSC Remedial Education	
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? <input checked="" type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: From Barb Yetter: Regarding when a licensee is reported to the Board regarding issues such as draping, keeping records, generalized cleanliness of their facility, etc. There is no continued education available for this type of remedial education, but the obvious first step when encountered with these issues as a case advisor is to send them for mandatory education. I took it upon myself to look into this matter and now need to have it discussed with the Board.			
11) Authorization			
Daniel Agne			
Signature of person making this request			Date
Supervisor (if required)			Date
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 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 Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

From: Debra Persinger
Sent: Wednesday, July 09, 2014 8:16 PM
To: Ryan, Thomas - DSPS
Subject: RE: remedial education

Hello Tom,

I agree with the conclusion that there is a scarcity of resources and I'm sorry to say that I have nowhere to send you for a remedy at this moment. I'm not sure of your timeline but in order to address the problem - encountered by many other boards of massage as well - the FSMTB has already begun to develop educational content for these kinds of topics that specifically meet the needs of the regulatory community. It comes under the categories of Ethics and Professional Practice. There is an assessment component along with the educational component and the courses will be available online.

We have a License Renewal Committee comprised of regulatory board members, along with the Ethics and Professional Practice Committee working on the courses. We surveyed the member boards for topics that they wanted to be provided. I'm not sure if SOAP notes was a priority but draping certainly was. If the Wisconsin Board wants to request specific topics, please do so and we'll do our best to accommodate.

Hope this helps with a solution, albeit not an immediate one.

[DEBRA PERSINGER, PH.D.](#)
[EXECUTIVE DIRECTOR](#)
[FEDERATION OF STATE MASSAGE THERAPY BOARDS](#)
[PHONE: 913.681.0380 / TOLL FREE: 1.888.70.FSMTB](#)

From: Ryan, Thomas - DSPS
Sent: Tuesday, July 8, 2014 7:37 AM
To: Debra Persinger
Subject: remedial education

Good Morning Ms. Persinger,

A question has arisen in our state about discipline orders that include a requirement for remedial education, such as the need to be re-trained in draping, or keeping soap notes, as two examples. There is currently an apparent lack of providers of such remedial education. So I am wondering if you know what providers other states use,

or if there is a similar kind of situation with a seeming scarcity elsewhere.

Do you have any information you can provide, or directions as to how to get started?

Thank you.

Tom

Sweeney, Pat

From: Sweeney, Pat
Sent: Tuesday, June 17, 2014 10:03 AM
To: 'Barb Yetter'
Subject: EAB Response to State Board education

Barb:

I have spoken to several smaller, owner/operated schools. They all would agree to help. The school folks would like to see the complaint/some written notification of what was wrong that needs education/fixing. From that Board communication, the school folks could design a specific tutoring plan. All the schools thought this would be a one-on-one tutoring situation with education, practice, demonstration and likely some testing. Schools wanted to know what they would need to provide to the Board after the education and training session for accountability. Schools thought this kind of remedial training could be done in 4-8 hours depending of the violations noted with the cost ranging from \$150 to \$300 for the instructor/tutor's one-on-one time. I would suggest this remedial training happen in the small schools because the Board will have easier communication and more accountability. Should the Massage Therapy Credentialing Board move forward with required remedial education and training for licensed massage therapist, we would need to figure out how it would work (individual contracts/agreements with schools, who pays, and the accountability) and how the massage therapy schools are informed.

I hope this helps. Let me know what else I can do to help-
Pat Sweeney

From: Barb Yetter [mailto:]
Sent: Tuesday, June 10, 2014 3:50 PM
To: Sweeney, Pat
Subject: State Board education

Hi Pat,

I am hoping that you will be able to help me establish a way to provide education from the massage schools to licensed massage therapist that have had issues regarding remedial types of procedures such as sanitation, record keeping, informed consent, etc. There are no continued education classes out that I am aware of that can address these issues and we need a process to mandate this type of training to those that are not following any procedures and have been cited for them.

Any help in this matter would be greatly appreciated. I hope to hear from you soon.

Sincerely,
Barb Yetter
State Board Affiliated Credentialing Board Member

Sweeney, Pat

From: Sweeney, Pat
Sent: Wednesday, June 25, 2014 11:17 AM
To: 'Barb Yetter'
Subject: RE: List of schools

Barb:

You asked me to investigate if the EAB-approved massage therapy schools would be willing to do some "remedial" education and training for massage therapists deemed problematic by the Massage Therapy Affiliated Credentialing Board because of consumer complaints. I contacted Blue Sky, Milwaukee School of Massage, East-West Institute of the Healing Arts, and the Wisconsin School of Massage to find out their willingness and get some idea of the time and cost needed to do the remedial work. I sent you the results of my talks with these schools. I also mentioned that the Board would need some kind of agreement with the schools to do this remediation and some communication from the Board with the schools would have to be done. This is a bigger policy issue than me helping you solve the one case to which you are assigned. I cannot give you a list of the schools because it is not EAB's responsibility nor does EAB have the authority to assign massage therapy schools to provide "remedial" education and training to solve a consumer complaint filed with the Massage Therapy Affiliated Credentialing Board. Your Board has to make contact with the massage therapy schools and set up agreements to do such remediation to resolve complaints filed with the Board. As you requested, I did some initial inquiry to see what's possible and feasible. Now it is up to the Massage Therapy Board to work with the schools to set up a system and agreements to resolve the complaints the Board has against licensed massage therapists.

I am sorry if I was not clear in my last email summarizing my inquiry with several massage therapy schools about your request for schools to provide remediation to massage therapists. If you read it, I did say it was now up to your Board to take the next step to communicate with the massage therapy schools and to set up an agreed upon system to resolve through remediation complaints against licensed massage therapists.

Pat Sweeney

From: Barb Yetter [mailto:]
Sent: Tuesday, June 24, 2014 8:34 AM
To: Sweeney, Pat
Subject: List of schools

Hi Pat,

I was just wondering if I could get the list of schools that would be willing to cooperate with the Board along with a contact number so that we can keep this on file when these education issues arise. I will need to pass this along rather quickly to the state in order to finish the case that I am currently assigned to. The lawyer said that we can not dictate which school they must go to, so we would need to provide the list each time this type of reprimand for education is needed so the therapist can arrange their education with the school.

I appreciate your help in this matter!
Barb Yetter