



**MASSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
July 18, 2017**

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) Approval of Minutes of February 7, 2016 (4-9)

C) Administrative Updates

- 1) Department and Staff Updates
- 2) Board Members – Term Expiration Dates
 - a) Darlene Campo – 07/01/2018
 - b) Robert Coleman – 07/01/2018
 - c) Carla Hedtke – 07/01/2018
 - d) Elizabeth Krizeneky – 07/01/2018
 - e) Mark Richardson – 07/01/2018
- 3) Wis. Stat. s 15.085 (3)(b) – Biannual Meeting with the Medical Examining Board
- 4) Informational Items

D) Federation of State Massage Therapy Boards (FSMTB) Matters (10)

- 1) FSMTB Annual Meeting

E) Legislative/Administrative Rule Matters (11-24)

- 1) Review of Draft Rule Language for MTBT 2 and 3 Relating to Application for a License and Approved Training Programs
- 2) Review of Draft Rule Language for MTBT 7 Relating to Continuing Education
- 3) Update on Other Legislation and Pending or Possible Rulemaking Projects

F) Wisconsin Massage Law Update Survey (25)

G) 2015 Wisconsin Act 5, Relating to Human Trafficking Posters (26)

H) Credentialing and Application Matters

- I) Speaking Engagements, Travel, or Public Relation Requests, and Reports

J) Informational Items

K) 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) Nominations, Elections, and Appointments
- 9) Informational Item(s)
- 10) Disciplinary Matters
- 11) Presentations of Petition(s) for Summary Suspension
- 12) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 13) Presentation of Proposed Decisions
- 14) Presentation of Interim Order(s)
- 15) Petitions for Re-Hearing
- 16) Petitions for Assessments
- 17) Petitions to Vacate Order(s)
- 18) Petitions for Designation of Hearing Examiner
- 19) Requests for Disciplinary Proceeding Presentations
- 20) Motions
- 21) Petitions
- 22) Appearances from Requests Received or Renewed
- 23) Speaking Engagement(s), Travel, or Public Relation Request(s), and Reports

K) 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.).

L) Credentialing Matters – Application Review (27)

- 1) Christina Cass

M) Deliberation on Division of Legal Services and Compliance (DLSC) Matters

- 1) **Administrative Warnings**
- 2) **Proposed Stipulations, Final Decisions and Orders**
 - a) 16 MAB 013 – April L. Kieler **(28-34)**
 - b) 16 MAB 019 – Christopher J. Ehrett **(35-40)**
- 3) **Case Closures**
 - a) 16 MAB 012 **(41-44)**
- 4) **Monitoring**

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) Board Training Review – Public Records and Ethics and Lobbying (45-50)

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

T) Future Agenda Items

ADJOURNMENT

NEXT MEETING DATE SEPTEMBER 26, 2017

 MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 1400 East Washington Avenue, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board’s agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**MASSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD**

February 7, 2017

PRESENT: Darlene Campo, Robert Coleman (*arrived via GoToMeeting at 9:03 a.m.,*) Carla Hedtke, Elizabeth Krizenesky (*via GoToMeeting,*) Mark Richardson

STAFF: Tom Ryan, Executive Director; Dale Kleven, Administrative Rules Coordinator; Nifty Lynn Dio, Bureau Assistant; and other Department Staff

CALL TO ORDER

Elizabeth Krizenesky, Chair, called the meeting to order at 9:01 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: Darlene Campo moved, seconded by Carla Hedtke, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Carla Hedtke moved, seconded by Darlene Campo, to approve the minutes of December 14, 2016 as published. Motion carried unanimously.

(Robert Coleman arrived at 9:03 a.m.)

ADMINISTRATIVE UPDATES

ELECTION OF OFFICERS

BOARD CHAIR

NOMINATION: Darlene Campo nominated Elizabeth Krizenesky for the Office of Board Chair.

Tom Ryan called for nominations three (3) times.

Elizabeth Krizenesky was elected as Chair by unanimous consent.

VICE CHAIR

NOMINATION: Elizabeth Krizenesky nominated Darlene Campo for the Office of Vice Chair.

Tom Ryan called for nominations three (3) times.

Darlene Campo was elected as Vice Chair by unanimous consent.

SECRETARY

NOMINATION: Darlene Campo nominated Mark Richardson for the Office of Secretary.

Tom Ryan called for nominations three (3) times.

Mark Richardson was elected as Secretary by unanimous consent.

2017 ELECTION RESULTS	
Board Chair	Elizabeth Krizenesky
Vice Chair	Darlene Campo
Secretary	Mark Richardson

LIAISON APPOINTMENTS

2017 LIAISON APPOINTMENTS	
Credentialing Liaison(s)	Darlene Campo, Alternate – Carla Hedtke
DLSC Liaison	Robert Coleman Alternate – Mark Richardson
Monitoring Liaison	Darlene Campo Alternate – Mark Richardson
Office of Education and Examinations Liaison	Darlene Campo Alternate – Mark Richardson
Legislative Liaison	Elizabeth Krizenesky Alternate – Carla Hedtke
Travel Liaison	Elizabeth Krizenesky Alternate – Darlene Campo
Website Liaison	Robert Coleman Alternate – Elizabeth Krizenesky
Administrative Rules Liaison	Elizabeth Krizenesky Alternate – Darlene Campo
Professional Assistance Procedure (PAP) Liaison	Darlene Campo Alternate – Carla Hedtke
Screening Panel	Darlene Campo, Robert Coleman, Mark Richardson

MOTION: Darlene Campo moved, seconded by Mark Richardson, to affirm the Chair’s appointment of liaisons and panels for 2017. Motion carried unanimously.

DELEGATION MOTIONS

Monitoring Delegations

MOTION: Darlene Campo moved, seconded by Carla Hedtke, to affirm the Chair’s appointment of Darlene Campo as the Monitoring Liaison, and Mark Richardson as the alternate, to adopt the ‘Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor’ document as presented. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Robert Coleman moved, seconded by Mark Richardson, 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, make appointments to vacant liaison, panel and committee positions, 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.

Delegated Authority for Application Denial Reviews

MOTION: Darlene Campo moved, seconded by Carla Hedtke, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Document Signature Delegation

MOTION: Darlene Campo moved, seconded by Robert Coleman, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director or designee to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Credentialing Authority Delegations

MOTION: Darlene Campo moved, seconded by Mark Richardson, to delegate credentialing authority to the Credentialing Liaisons to make all credentialing decisions, including the authority to issue an "intent to deny" letter when applicable. All potential denial decisions should be referred to the full Board for final determination. Motion carried unanimously.

MOTION: Darlene Campo moved, seconded by Carla Hedtke, to delegate credentialing authority to DSPS for those submitted applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously

Travel Delegation

MOTION: Darlene Campo moved, seconded by Robert Coleman, to authorize the travel liaison to approve all Board travel. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Review of and Proposals for Chs. MTBT 2 and 3

MOTION: Darlene Campo moved, seconded by Carla Hedtke, to rescind the Scope Statement for emergency rule writing regarding MTBT 2 and 3. Motion carried unanimously.

Scope Statement for MTBT 7 Relating to Continuing Education

MOTION: Carla Hedtke moved, seconded by Darlene Campo, to direct the Division of Professional Credential Processing and the Office of Education and Examinations to accept continuing education acquired beyond the deadline currently in law and accept continuing education credit obtained up until 03/01/2017. Motion carried unanimously.

MOTION: Mark Richardson moved, seconded by Darlene Campo, to approve the Scope Statement on MTBT 7 relating to continuing education for submission to the Governor's Office and publication, and to authorize the Chair to approve the scope for implementation no less than 10 days after publication.. Motion carried unanimously.

CLOSED SESSION

MOTION: Robert Coleman moved, seconded by Darlene Campo, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 448.02(8), 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.). 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: Darlene Campo - yes; Robert Coleman – yes; Carla Hedtke – yes; Elizabeth Krizenesky – yes; Mark Richardson – yes. Motion carried unanimously.

The Board convened into Closed Session at 11:29 a.m.

RECONVENE TO OPEN SESSION

MOTION: Mark Richardson moved, seconded by Darlene Campo, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 11:50 a.m.

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

MOTION: Elizabeth Krizenesky moved, seconded by Darlene Campo, to affirm all Motions made and Votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote).

CREDENTIALING MATTERS APPLICATION REVIEW

Zhou Liu

MOTION: Darlene Campo moved, seconded by Mark Richardson to issue an Intent to Deny the application of Zhou Liu. Reason for Denial: Applicant has not provided evidence that Applicant's school was accredited as required by Wis. Stat.

§460.05(1)(e) and Wis. Admin. Code § MTBT 3.01(4).Motion carried unanimously.

Feng Su

MOTION: Darlene Campo moved, seconded by Carla Hedtke to issue an Intent to Deny the application of Feng Su. Reason for Denial: Applicant has not provided evidence that Applicant's school was accredited as required by Wis. Stat. §460.05(1)(e) and Wis. Admin. Code § MTBT 3.01(4).Motion carried unanimously.

Min Wang

MOTION: Darlene Campo moved, seconded by Robert Coleman to issue an Intent to Deny the application of Min Wang. Reason for Denial: Applicant has not provided evidence that Applicant's school was accredited as required by Wis. Stat. §460.05(1)(e) and Wis. Admin. Code § MTBT 3.01(4).Motion carried unanimously.

Huiming Yu

MOTION: Robert Coleman moved, seconded by Carla Hedtke to issue an Intent to Deny the application of Huiming Yu. Reason for Denial: Applicant has not provided evidence that Applicant's school was accredited and that Applicant has completed the requisite class room hours required by Wis. Stat. § 460.05(1)(e) and Wis. Admin. Code §§ MTBT 3.01(4) and MTBT 3.01(5).Motion carried unanimously.

Xiaopei Zhang

MOTION: Darlene Campo moved, seconded by Mark Richardson to issue an Intent to Deny the application of Xiaopei Zhang Reason for Denial: Applicant has not provided evidence that Applicant's school was accredited as required by Wis. Stat. §460.05(1)(e) and Wis. Admin. Code § MTBT 3.01(4).Motion carried unanimously.

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Proposed Stipulations, Final Decisions and Orders

16 MAB 018 – Timothy M. Hardy

MOTION: Carla Hedtke moved, seconded by Darlene Campo, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Timothy Hardy, DLSC Case No. 16 MAB 018. Motion carried unanimously.

Case Closures

15 MAB 009 – Prosecutorial Discretion (P7)

MOTION: Darlene Campo moved, seconded by Elizabeth Krizenesky, to close case DLSC Case No. 15 MAB 009, against L.M.S., for Prosecutorial Discretion (P7). Motion carried unanimously.

16 MAB 017 – *Insufficient Evidence*

MOTION: Carla Hedkte moved, seconded by Darlene Campo, to close case DLSC Case No. 16 MAB 017, against J.D.S., for Insufficient Evidence. Motion carried unanimously.

RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Darlene Campo moved, seconded by Carla Hedtke, to delegate ratification of examination results to DSPS staff and to delegate and ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Mark Richardson moved, seconded by Robert Coleman, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:51 a.m.

**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: 4/6/2017	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 7/18/2017	5) Attachments: Yes x No	6) How should the item be titled on the agenda page? Federation of State Massage Therapy Boards Annual Meeting	
7) Place Item in: x 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? No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Consider delegating a representative to attend the FSMTB Annual Meeting.			
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
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 7/6/17 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 7/18/17	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Administrative Rule Matters – Discussion and Consideration 1. Review of Draft Rule Language for MTBT 2 and 3 Relating to Application for a License and Approved Training Programs 2. Review of Draft Rule Language for MTBT 7 Relating to Continuing Education 3. Update on Other Legislation and Pending or Possible Rulemaking Projects	
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 (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Dale Kleven</i>		<i>July 6, 2017</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.			

Chapter MTBT 2

APPLICATION

MTBT 2.01 Application for a license. An individual applying applicant for a certificate as a massage therapist or bodyworker shall submit all of the following to the department board:

(1) An application on a form provided by the department board.

Note: Application forms are available upon request to the Department of Safety and Professional Services department of safety and professional services at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or at the department's website at <http://dps.wi.gov>.

(2) The fee specified required under s. 440.05 (1), Stats.

(3) Evidence satisfactory to the department board that he or she the applicant meets all of the following requirements:

(a) Has graduated from a school of massage therapy or bodywork approved by the educational approval board at the time of the applicant's graduation or completed an approved training program under s. MTBT 3.01.

Note: A list of approved schools is available upon request to the Educational Approval Board, 30 West Mifflin Street, 9th Floor, P.O. Box 8696, Madison, Wisconsin 53708.

(b) Has successfully completed at least 6 classroom hours of study in the laws of this state and rules of the department board relating to the practice of massage therapy or bodywork in a course of instruction offered by any of the following:

1. A school of massage therapy or bodywork approved by the educational approval board, whether or not the course of instruction was completed to meet a requirement for graduation.

2. An approved training program under s. MTBT 3.01, whether or not the training program is completed by the individual applicant for purposes of satisfying par. (a).

3. A school approved by an accrediting agency: meeting all of the following requirements at the time the course of study was completed:

a. The school is accredited by an accrediting agency as defined in s. MTBT 1.02 (1) (a) or an accrediting agency as defined in s. MTBT 1.02 (1) (b) that is recognized by the United States Department of Education.

b. The school is approved or recognized by the state board or agency authorized to regulate massage therapy in the state in which the school is located. If a school is located in a state in which an authorized state massage therapy board or agency does not approve or recognize schools, approval or recognition from the state's department of education or equivalent state department or agency meets the requirement under this subd. 3. b.

4. A technical college established pursuant to s. 38.02, Stats.

(c) Is 18 years of age or older.

(d) Has graduated high school or attained high school equivalency as determined by the department of public instruction under s. 115.29 (4), Stats.

(e) Has not been convicted of an offense under s. 940.22, 940.225, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095 or 948.10, Stats., or a comparable offense under federal law or a law of any other state.

(f) Subject to ss. 111.321, 111.322 and 111.335, Stats., has not been convicted of any other offense not listed in par. (e), the circumstances of which substantially relate to the practice of massage therapy or bodywork.

(g) Has passed either the national certification examination for therapeutic massage and bodywork or the national certification examination for therapeutic massage that are the Board Certification Examination for Therapeutic Massage and Bodywork offered by the national certification board for therapeutic massage and bodywork National Certification Board for Therapeutic Massage and Bodywork, or another examination relating to the practice of massage therapy or bodywork that is administered by a national

board that is accredited by the ~~national commission for certifying agencies~~ National Commission for Certifying Agencies or a substantially equivalent examination approved by the ~~department~~ board.

- (h) Has passed an examination on state laws and administrative rules governing massage therapy or bodywork.
- (i) Has in effect as a policyholder and insured, malpractice liability insurance coverage in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.
- (j) Has successfully completed a course consisting of 5 classroom hours in adult cardiopulmonary resuscitation and standard first aid if the ~~individual has not graduated from a school of massage therapy or bodywork approved by the educational approval board and the~~ 5 classroom hours are not ~~completed by the individual as~~ part of an the course of study or approved training program ~~as provided under s. MTBT 3.01 completed by the applicant for purposes of meeting the requirement under par. (a).~~
- (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.

MTBT 2.015 Waiver of education requirements. The requirements of s. MTBT 2.01 (3) (a) and (b) shall be waived if an individual applicant submits evidence satisfactory to the department that ~~he or she the applicant~~ has successfully completed a course consisting of 5 classroom hours in adult cardiopulmonary resuscitation and standard first aid and satisfied one of the following:

- (1) Is currently either certified or recertified by the national certification board for therapeutic massage and bodywork.
- (2) Is currently either certified or recertified as active and in good standing by any other organization accredited to certify massage therapy or bodywork by the national commission for certifying agencies.

MTBT 2.03 Reciprocal license.

(1) An ~~individual applying~~ applicant for a license on the basis of a similar license, registration, or license in another state or territory of the United States or another country shall submit all of the following to the board:

(a) ~~Submit an~~ An application on a form provided by the board.

Note: Application forms are available upon request to the department of safety and professional services at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or at the department's website at <http://dsps.wi.gov>.

(b) ~~Pay the~~ The fee required under s. 440.05 (2), Stats.

(c) ~~Submit evidence~~ Evidence satisfactory to the board that the ~~individual~~ applicant meets all of the following requirements:

- 1. Holds a current similar license, registration or certificate to practice massage therapy or bodywork in another state or territory of the United States or another country, the requirements for which are substantially equivalent to the requirements under s. 460.05, Stats.
 - 2. Has not been convicted of an offense under s. 940.22, 940.225, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095 or 948.10, Stats., or a comparable offense under federal law or a law of any other state.
 - 4. Subject to ss. 111.321, 111.322 and 111.335, Stats., has not been convicted of any other offense not listed under subd. 2., the circumstances of which substantially relate to the practice of massage therapy or bodywork.
 - 7. Has in effect as a policyholder and insured, malpractice liability insurance coverage in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.
- (2) Requirements for a current similar license, registration or certificate to practice massage therapy or bodywork in another state or territory of the United States or another country, are substantially equivalent to the requirements under s. 460.05, Stats., if the requirements include either of the following:

- (a) Certification by the national certification board for therapeutic massage and bodywork or any other organization accredited by the national commission for certifying agencies to certify massage therapy or bodywork.
- (b) ~~Completion~~ Passing an examination meeting the requirements under s. MTBT 2.01 (3) (g) and completion of at least 500 classroom hours of instruction in massage therapy or bodywork at a school approved by an accrediting agency, and passing an examination relating to the practice of massage therapy or bodywork that is administered or approved by an accrediting agency meeting the requirements under s. MTBT 2.01 (3) (b) 3. a. and b. at the time of the applicant's graduation.

MTBT 2.04 Accommodations relating to a disability. A qualified ~~individual~~ applicant with a disability shall be provided with reasonable accommodations requested in connection with the completion of an application for certification as a massage therapist or bodyworker.

MTBT 3.01 Approved training program.

- (1) An ~~individual applying for a license as a massage therapist or bodywork therapist~~ applicant who has not graduated from a school of massage therapy or bodywork therapy approved by the educational approval board shall submit an official transcript or other official documentation showing dates and total hours attended and a description of the curriculum completed establishing that ~~he or she~~ the applicant has completed an approved training program.
- (2) Credit may be granted for an approved training program regardless of when the program was completed.
- (4) In addition to satisfying the requirements of sub. (5), an approved training program shall be one of the following:
 - (a) An associate degree program, or a technical diploma program in massage therapy or bodywork offered by a technical college established pursuant to s. 38.02, Stats.
 - (b) A course of instruction in massage therapy or bodywork offered by a school ~~accredited by an accrediting agency at the time the individual completes the course of instruction~~ meeting the requirements under s. MTBT 2.01 (3) (b) 3. a. and b. at the time of the applicant's graduation.
- (5) An approved training program shall consist of a minimum of 600 classroom hours of study and shall include the following subject areas:
 - (a) ~~Anatomy One hundred twenty five classroom hours in anatomy,~~ physiology, pathology, and kinesiology: 125 classroom hours.
 - (b) ~~Business Fifty classroom hours in business,~~ law and ethics: ~~50 classroom hours,~~ which shall include at least 6 classroom hours in the laws of this state and rules of the board relating to the practice of massage therapy or bodywork therapy required by s. MTBT 2.01 (3) (b).
 - (c) ~~Massage Three hundred classroom hours in massage~~ therapy or bodywork theory, technique, and practice: ~~300 classroom hours,~~ which shall include 100 classroom hours of supervised hands-on practice.
 - (d) ~~Student Twenty classroom hours in student~~ clinic: ~~20 classroom hours.~~
 - (e) ~~Adult Five classroom hours in adult~~ cardiopulmonary resuscitation (~~CPR~~) and standard first aid: ~~5 classroom hours.~~ The requirement of this paragraph may be alternatively satisfied as provided under s. MTBT 2.01 (3) (j).
 - (f) ~~Additional One hundred classroom hours in additional~~ massage therapy or bodywork course offerings meeting the objectives of the course of instruction: ~~100 classroom hours.~~

STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK AFFILIATED CREDENTIALING BOARD

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

PROPOSED ORDER

An order of the Massage Therapy and Bodywork Affiliated Credentialing Board to renumber and amend MTBT 2.01 (3) (b) 3.; to amend MTBT 2.01 (intro.), (1), (Note), (2), and (3) (intro.), (a), (b) (intro.) and 2., (g), and (j), 2.015 (intro.), 2.03 (1) (intro.), (a), (Note), (b), and (c) (intro.) and (2) (b), 2.04, and 3.01 (1), (4) (b), and (5) (a) to (f); and to create MTBT 2.01 (3) (b) 3. a. and b., relating to application for a license and approved training programs.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 460.04 (2) (b), Stats.

Statutory authority:

Sections 15.085 (5) (b), 460.04 (2) (b), (e), (f), and (g), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides that affiliated credentialing boards, such as the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . .”

Section 460.04 (2) (b), Stats., provides the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board shall promulgate rules that establish criteria for approving a training program for purposes of licensing massage therapists and bodywork therapists.

Section 460.04 (2) (e), Stats., provides the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board shall promulgate rules that establish “[a] requirement that an applicant for a license under this chapter submit evidence satisfactory to the affiliated credentialing board that the applicant 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) to provide such instruction.”

Section 460.04 (2) (f), Stats., provides the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board shall promulgate rules that establish “[r]equirements to be satisfied by a person seeking a temporary license under s. 460.08 ...”

Section 460.04 (2) (g), Stats., provides the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board shall promulgate rules that establish “[a] requirement that an applicant for a license under this chapter pass an examination on state laws and administrative rules governing massage therapy and bodywork therapy.”

Related statute or rule:

None.

Plain language analysis:

Current rules contain requirements that a school that is neither approved by the Educational Approval Board nor a technical college established pursuant to s. 38.02, Stats., be “approved by an accrediting agency” or “accredited by an accrediting agency.” The vagueness of these terms makes approval of applications for licensure and training programs difficult. The proposed rules will replace these terms with a requirement that a school not approved by the Educational Approval Board and not a technical college established pursuant to s. 38.02, Stats., meet the following requirements:

- accreditation by an accrediting agency recognized by the United States Department of Education
- approval or recognition by the state board or agency authorized to regulate massage therapy in the state in which the school is located

If a school is located in a state in which a state massage therapy board or agency does not approve or recognize schools, approval or recognition from the state’s department of education or equivalent state department or agency meets the second requirement above.

The proposed rules revise s. MTBT 2.01 (3) (g) to reflect the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) currently offers only one examination for certification - the Board Certification Examination for Therapeutic Massage and Bodywork (BCETMB).

The proposed rules also make changes throughout chs. MTBT 2 and 3 to provide clarity and conform to current drafting standards.

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

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Department of Financial and Professional Regulation (IDFPR) provides rules and oversight for the practice of massage therapy in the state of Illinois. The Illinois Massage Licensing Board advises IDFPR on matters involving professional conduct, discipline, and qualifications of candidates and licensees.

An applicant for a license to practice massage therapy in Illinois must 1) be at least 18 years of age and of good moral character; 2) have completed at least 600 hours of supervised classroom and supervised hands-on instruction from an approved massage therapy program and maintained a minimum grade of 70% for all massage therapy related course and clinical work; 3) have

passed the National Certification Board for Therapeutic Massage and Bodywork's (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLE_x) administered by the Federation of State Massage Therapy Boards (FSMTB); 4) have verification of fingerprint processing from the Illinois Department of State Police (ISP) or other certified or licensed vendor; and 5) pay the required fee. (68 Ill. Adm. Code 1284.30 (2014))

An in-state massage therapy program must include at least 600 hours of supervised classroom and supervised hands-on instruction and meet certain other minimum criteria to be considered an approved massage therapy program. This includes criteria relating to classroom instruction subject matter and hands-on instruction activities, number of faculty, faculty and faculty assistant qualifications, maintenance of student records, having written plans of organization and study, and use of a living human being for hands-on practice. A massage therapy program from another jurisdiction must have substantially similar criteria for an applicant to have his or her credentials accepted for licensure by IDFPR. (68 Ill. Adm. Code 1284.20 (2014))

Iowa:

The Iowa Board of Massage Therapy provides rules and oversight for the practice of massage therapy in the state of Iowa.

An applicant for a license to practice massage therapy in Iowa must 1) complete an application packet approved by the Board; 2) have graduated from a school approved by the Board that has a minimum of 500 hours of massage therapy education; 3) have passed any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLE_x); 4) have completed a cardiopulmonary resuscitation (CPR) course and a first-aid course certified by the American Red Cross, American Heart Association, or National Safety Council; and 5) pay the required fee. (645 IAC 131)

An in-state massage therapy school's education curriculum must offer a course of study of at least 500 hours and meet certain other criteria to be approved by the Board. This includes criteria relating to entrance requirements, curriculum content areas, clinical practicum coursework, records retention, and awarding of a certificate or diploma. An out-of-state massage therapy school's curriculum is only reviewed by the Board on a case-by-case basis upon receipt of the curriculum as part of an individual's application for licensure. (645 IAC 132)

Michigan:

The Michigan Board of Massage Therapy provides rules and oversight for the practice of massage therapy in the state of Michigan.

An applicant for a license to practice massage therapy in Michigan must 1) complete an application provided by the Michigan Department of Licensing and Regulatory Affairs; 2) have a high school diploma or the equivalent as determined by the Board; 3) have successfully completed a supervised curriculum that meets the requirements approved by the Board; 4) have passed the National Certification Board for Therapeutic Massage and Bodywork's National Certification Examination for Therapeutic Massage (NCETM) or National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) or the Federation of State Massage Therapy Boards' Massage and Bodywork Licensing Examination (MBLE_x); and 5) submit the required fee. (Mich Admin Code, R 338.709)

A supervised curriculum must include at least 500 hours of classroom instruction and meet certain other minimum requirements. This includes requirements relating to course or coursework content, performance of massage therapy services in a supervised student clinic, and the qualifications and responsibilities of a supervising massage therapist at a supervised student clinic. (Mich Admin Code, R 338.705)

Minnesota:

The Minnesota Department of Health’s Office of Unlicensed Complementary and Alternative Health Care Practice (OCAP) investigates complaints and takes enforcement actions against massage therapists for violations of prohibited conduct. However, neither OCAP nor any other statewide agency or board oversees the licensing of massage therapists or approves massage therapy training programs or curriculum. Licensing requirements, if any, for massage therapists are established by the county or city in which the massage therapist practices.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing current rules in chs. MTBT 2 and 3 relating to application for a license and approved training programs, and obtaining input and feedback from the Massage Therapy and Bodywork Affiliated Credentialing Board.

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

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

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 Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. MTBT 2.01 (intro.), (1), (Note), (2), and (3) (intro.), (a), and (b) (intro.) and 2. are amended to read:

MTBT 2.01 Application for a license. (intro.) An ~~individual applying~~ applicant for a certificate as a massage therapist or bodyworker shall submit all of the following to the ~~department~~ board:

- (1) An application on a form provided by the ~~department~~ board.

(Note) Application forms are available upon request to the ~~Department of Safety and Professional Services~~ department of safety and professional services at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or at the department's website at <http://dsps.wi.gov>.

(2) The fee ~~specified~~ required under s. 440.05 (1), Stats.

(3) (intro.) Evidence satisfactory to the ~~department~~ board that ~~he or she~~ the applicant meets all of the following requirements:

(a) Has graduated from a school of massage therapy or bodywork approved by the educational approval board at the time of the applicant's graduation or completed an approved training program under s. MTBT 3.01.

(b) (intro.) Has successfully completed at least 6 classroom hours of study in the laws of this state and rules of the ~~department~~ board relating to the practice of massage therapy or bodywork in a course of instruction offered by any of the following:

2. An approved training program under s. MTBT 3.01, whether or not the training program is completed by the ~~individual~~ applicant for purposes of satisfying par. (a).

SECTION 2. MTBT 2.01 (3) (b) 3. is renumbered MTBT 2.01 (3) (b) 3. (intro.) and amended to read:

MTBT 2.01 (3) (b) 3. (intro.) A school ~~approved by an accrediting agency~~ meeting all of the following requirements at the time the course of study was completed:

SECTION 3. MTBT 2.01 (3) (b) 3. a. and b. are created to read:

MTBT 2.01 (3) (b) 3. a. The school is accredited by an accrediting agency as defined in s. MTBT 1.02 (1) (a) or an accrediting agency as defined in s. MTBT 1.02 (1) (b) that is recognized by the United States Department of Education.

b. The school is approved or recognized by the state board or agency authorized to regulate massage therapy in the state in which the school is located. If a school is located in a state in which a state massage therapy board or agency does not approve or recognize schools, approval or recognition from the state's department of education or equivalent state department or agency meets the requirement under this subdivision 3. b.

SECTION 4. MTBT 2.01 (3) (g) and (j) are amended to read:

MTBT 2.01 (3) (g) Has passed ~~either the national certification examination for therapeutic massage and bodywork or the national certification examination for therapeutic massage that are~~ the Board Certification Examination for Therapeutic Massage and Bodywork offered by the ~~national certification board for therapeutic massage and bodywork~~ National Certification Board for Therapeutic Massage and Bodywork, or another examination relating to the practice of massage therapy or bodywork that is administered by a national board that is accredited by the ~~national commission for certifying agencies~~ National Commission for Certifying Agencies or a substantially equivalent examination approved by the ~~department~~ board.

(j) Has successfully completed a course consisting of 5 classroom hours in adult cardiopulmonary resuscitation and standard first aid if the ~~individual has not graduated from a school of massage therapy or bodywork approved by the educational approval board and the 5 classroom hours are not completed by the individual as part of an~~ the course of study or approved training program as provided under s. MTBT 3.01 ~~completed by the applicant for~~ purposes of meeting the requirement under par. (a).

SECTION 5. MTBT 2.015 (intro.) is amended to read:

MTBT 2.015 Waiver of education requirements. (intro.) The requirements of s. MTBT 2.01 (3) (a) and (b) shall be waived if an ~~individual~~ applicant submits evidence satisfactory to the department that ~~he or she~~ the applicant has successfully completed a course consisting of 5 classroom hours in adult cardiopulmonary resuscitation and standard first aid and satisfied one of the following:

SECTION 6. MTBT 2.03 (1) (intro.), (a), (Note), (b), and (c) (intro.) and (2) (b) are amended to read:

MTBT 2.03 (1) (intro.) An ~~individual applying~~ applicant for a license on the basis of a similar license, registration, or license in another state or territory of the United States or another country shall submit all of the following to the board:

(a) ~~Submit an~~ An application on a form provided by the board.

(Note) Application forms are available upon request to the department of safety and professional services at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or at the department's website at http://dps.wi.gov.

(b) ~~Pay the~~ The fee required under s. 440.05 (2), Stats.

(c) (intro.) ~~Submit evidence~~ Evidence satisfactory to the board that the ~~individual applicant~~ meets all of the following requirements:

(2) (b) ~~Completion~~ Passing an examination meeting the requirements under s. MTBT 2.01 (3) (g) and completion of at least 500 classroom hours of instruction in massage therapy or bodywork at a school ~~approved by an accrediting agency, and passing an examination relating to the practice of massage therapy or bodywork that is administered or approved by an accrediting agency~~ meeting the requirements under s. MTBT 2.01 (3) (b) 3. a. and b. at the time of the applicant's graduation.

SECTION 7. MTBT 2.04 is amended to read:

MTBT 2.04 Accommodations relating to a disability. A qualified ~~individual~~ applicant with a disability shall be provided with reasonable accommodations requested in connection with the completion of an application for certification as a massage therapist or bodyworker.

SECTION 8. MTBT 3.01 (1), (4) (b), and (5) (a) to (f) are amended to read:

DI 3.01 (1) ~~An individual applying for a license as a massage therapist or bodywork therapist applicant~~ who has not graduated from a school of massage therapy or bodywork therapy approved by the educational approval board shall submit an official transcript or other official documentation showing dates and total hours attended and a description of the curriculum completed establishing that ~~he or she~~ the applicant has completed an approved training program.

(4) (b) A course of instruction in massage therapy or bodywork offered by a school ~~accredited by an accrediting agency at the time the individual completes the course of instruction meeting the requirements under s. MTBT 2.01 (3) (b) 3. a. and b. at the time of the applicant's graduation.~~

(5) (a) ~~Anatomy~~ One hundred twenty five classroom hours in anatomy, physiology, pathology, and kinesiology; ~~125 classroom hours.~~

(b) ~~Business~~ Fifty classroom hours in business, law and ethics; ~~50 classroom hours,~~ which shall include at least 6 classroom hours in the laws of this state and rules of the board relating to the practice of massage therapy or bodywork therapy required by s. MTBT 2.01 (3) (b).

(c) ~~Massage~~ Three hundred classroom hours in massage therapy or bodywork theory, technique, and practice; ~~300 classroom hours,~~ which shall include 100 classroom hours of supervised hands-on practice.

(d) ~~Student~~ Twenty classroom hours in student clinic; ~~20 classroom hours.~~

(e) ~~Adult~~ Five classroom hours in adult cardiopulmonary resuscitation (CPR) and standard first aid; ~~5 classroom hours.~~ The requirement of this paragraph may be alternatively satisfied as provided under s. MTBT 2.01 (3) (j).

(f) ~~Additional~~ One hundred classroom hours in additional massage therapy or bodywork course offerings meeting the objectives of the course of instruction; ~~100 classroom hours.~~

SECTION 9. 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)

STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK AFFILIATED CREDENTIALING BOARD

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

PROPOSED ORDER

An order of the Massage Therapy and Bodywork Affiliated Credentialing Board to amend MTBT 7.02 (3), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

Sections 15.085 (5) (b) and 460.10 (1) (a), Stats.

Explanation of agency authority:

Section 15.085 (5) (b), Stats., provides that affiliated credentialing boards, such as the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains . . .”

Section 460.10 (1) (a), Stats., provides the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board may promulgate rules establishing “[r]equirements and procedures for a license holder to complete continuing education programs or courses of study to qualify for renewal of his or her license.”

Related statute or rule:

None.

Plain language analysis:

Chapter MTBT 7 contains the continuing education requirements for renewal of a license in massage therapy or bodywork therapy. Section MTBT 7.02 (3) provides continuing education must be completed “within 2 calendar years immediately preceding the calendar year for which application for renewal is made.” This language is unclear, which has led to difficulty in complying with and administering the continuing education requirement. The proposed rules clarify the requirement by providing continuing education must be completed during the 2-year period immediately preceding the renewal date.

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

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation (IDFPR) specify continuing education requirements for persons licensed to practice massage therapy in the state of Illinois (68 Ill. Adm. Code 1284.90). Twenty four hours of continuing education, including at least 2 hours of ethics, must be completed during the 24 months preceding the expiration date of a license (all massage therapy licenses expire on December 31 of each even-numbered year).

Iowa:

Rules of the Iowa Board of Massage Therapy specify continuing education requirements for persons licensed to practice massage therapy in the state of Iowa (645 IAC 133). A minimum of 16 hours of continuing education must be completed each biennium. A biennium is a 2-year period beginning with the date the license was granted.

Michigan:

Rules of the Michigan Board of Massage specify continuing education requirements for persons licensed to practice massage therapy in the state of Michigan (Mich Admin Code, R 338.731 and R 338.733). An applicant for license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall accumulate not less than 18 hours of continuing education, including at least 1 hour in the area of pain and symptom management and 2 hours in the area of professional ethics or boundaries, during the 3 years immediately preceding the application for renewal.

Minnesota:

The Minnesota Department of Health’s Office of Unlicensed Complementary and Alternative Health Care Practice (OCAP) investigates complaints and takes enforcement actions against massage therapists for violations of prohibited conduct. However, neither OCAP nor any other statewide agency or board oversees the licensing of massage therapists. Licensing requirements, if any, for massage therapists are established by the county or city in which the massage therapist practices.

Summary of factual data and analytical methodologies:

The proposed rules clarify the period in which continuing education must be completed. No additional factual data or analytical methodologies were used to develop the proposed rules.

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

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

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 Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. MTBT 7.02 (3) is amended to read:

MTBT 7.02 (3) Each licensee shall, at the time of making application for renewal, sign a statement on the application for renewal certifying that the licensee has completed 24 hours of acceptable continuing education, including 2 credits pertaining to ethics, ~~within 2 calendar years immediately preceding the calendar year for which application for renewal is made~~ during the 2-year period immediately preceding the renewal date.

SECTION 2. 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)

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Nifty Lynn Dio, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 07/07/2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 07/18/2017	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Wisconsin Massage Law Update - Survey	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <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: https://docs.google.com/forms/d/e/1FAIpQLSfFA1W0m5_wzJlmtlah9OVeHVv-r-jOzblTO-08CVpQUnGo0w/viewform?c=0&w=1			
11) Authorization			
Nifty Lynn Dio		07/07/2017	
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.			

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Nifty Lynn Dio, Bureau Assistant On behalf of Tom Ryan, Executive Director		2) Date When Request Submitted: 07/07/2017 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 07/18/2017	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? <div style="background-color: yellow; width: 50px; height: 15px; margin: 5px 0;"></div>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <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: https://docs.legis.wisconsin.gov/2015/related/acts/5 https://www.doj.state.wi.us/ocvs/human-trafficking			
11) Authorization			
Nifty Lynn Dio		07/07/2017	
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.			

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Tom Ryan, Executive Director		2) Date When Request Submitted: 03/01/2017	
Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting			
3) Name of Board, Committee, Council, Sections: All Boards, Committees, Councils and Sections			
4) Meeting Date: 03/15/2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Training Review – Public Records and Ethics and Lobbying – Discussion and Consideration	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <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: Please review the materials previously emailed, and included herein, in preparation for discussion at the meeting. <ul style="list-style-type: none"> 1) Public Records and Ethics and Lobbying Training <ul style="list-style-type: none"> i. Email from 3/1/17 ii. Wisconsin Public Records Law Basics iii. DSPPS Public Records Information iv. Ethics and Lobbying Law One Pager 			
11) Authorization			
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.			

Wood, Kimberly - DSPS

From: Wood, Kimberly - DSPS
Sent: Wednesday, March 01, 2017 3:27 PM
To: Boullion, James - DSPS
Cc: Lewin, Brittany - DSPS; Ryan, Thomas - DSPS; Williams, Dan - DSPS; Zadrzil, Chad J - DSPS
Subject: Completion Reminder: Public Records and Ethics and Lobbying Training
Attachments: WisconsinPublicRecordsLawBasics_PPT.pdf; Ethics and Lobbying Law One Pager.pdf; DSPS Public Records Information.pdf

DSPS Board, Council or Committee member,

For those of you that have not already done so, this is a reminder to review the training materials we sent you a few weeks ago regarding what you need to know about Wisconsin's ethics and lobbying laws and how to handle public records. You will have a chance to raise any questions and discuss these topics at your next board, council or committee meeting.

We have also included an additional document called "DSPS Public Records Information.pdf" that identifies who you should talk to at DSPS about public records questions. Some people had difficulty opening the public records training file, therefore we have also attached a PDF version of the training called "WisconsinPublicRecordsLawBasics_PPT.pdf".

Hello,

Below you will find information about two requirements recently communicated to state agencies.

All Board, Council, Section and Committee members are required to receive training in two separate areas: 1) Public Records, and; 2) Ethics and Lobbying. **These required trainings must be completed at your earliest opportunity. Please complete the web-based public records training and review the attached ethics and lobbying guidance document by March 1st.** At your next meeting, you will have the opportunity to discuss the public records training and we will review the ethics and lobby law training.

Background information and instructions for both trainings is included below.

1) Public Records

On March 11, 2016, the Governor issued [Executive Order #189](#) reaffirming the importance of transparency in state government. Specifically, the Governor asked agencies to implement best practices to promote the public's access to the records of their government under Wisconsin's Public Records Law. The Governor also directed each state agency to provide public records resources and training for all employees and members of all boards, councils, commissions and committees attached to the agency.

This training has been developed and is available online at the following web link:

http://dsps.wi.gov/Documents/Board%20Services/Other%20Resources/RecordsTraining/Wisconsin_Public_Records_Law_Basics.pdf

*Please note that this link will require Adobe Flash Player which may not be available for your hand held device. *If you are unable to open the training, you may view the attached PDF titled "WisconsinPublicRecordsLawBasics_PPT" instead.*

If you have difficulty in accessing this information please contact Kimberly Wood at Kimberly.Wood@wisconsin.gov and she will assist you.

2) **Ethics and Lobbying**

Recently the Wisconsin Ethics Commission withdrew a formal opinion that had created a pathway for agency officials to remove themselves from the prohibitions of the lobbying law. A number of questions were received in response to the action by the Ethics Commission.

A guidance document is attached in an effort to clarify the current status of the law. The attachment is a one-page overview of specific provisions in the state ethics and lobbying laws that apply to persons appointed by Governor Walker throughout state government.

While the ethics law provisions apply to all appointees of the Governor, the lobbying law only applies to members of boards, councils, or commissions and committees that are involved with rule writing.

If you have any questions, please feel free to reach out to your Executive Director or the Wisconsin Ethics Commission at any time.

Thank you,

Jim Boullion

Administrator, Division of Policy Development
Department of Safety and Professional Services

james.boullion@wisconsin.gov

Phone: (608) 266-8419

What Is a Public Record?

Anything paper or electronic with information about government business, with a few exceptions

Public records can be paper or electronic.

Examples of electronic public records:

- Emails
- Videos
- Audio files
- Database content
- Instant messages



Record Location

The location of the record does not matter!

Emails, text messages, or files about government business on your personal device are public records. You must keep them and turn them over upon request.



Public Records Responsibility 3

When you have a public record, understand how to properly retain it.

- If it **is** a public record, follow your agency's record retention schedule.
- Check with your agency's records officer(s) or records coordinator(s) to learn:
 - How long to keep records.
 - Where to send records when time expires.
- Before you get rid of a record, make sure there are no pending records requests, audits, or lawsuits that require you to hold on to it.



Key Points

Key points to remember:

- Don't delete emails or any other records unless you know that you don't need to keep them.
- Organize hard copy documents so you know where to find them if a member of the public requests them.
- Know how long you are required to keep **your** records and what to do with them when that time is up.



Key Points, Continued

- Keep all your emails in a place where someone can search them when requests come in.
- Manage your own emails. Don't rely on disaster recovery backup systems. If you run out of storage in your mailbox, ask your agency's help desk for assistance with .pst files or similar solutions.
- Text messages on your personal cell phone are public records if they pertain to government business.
- Emails in your personal email are public records if they pertain to government business.

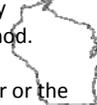


Public Records Responsibility 4

Recognize a public records request and handle the request appropriately.

A public records request:

- Is any request for government records.
- Does not require magic words or precise format.
- Can be submitted by email, by letter, by phone, in person, or by any other method.
- Can be written or verbal.
- Does not need to identify the requestor or the purpose of the request.



Department of Safety and Professional Services

Agency Specific Public Records Information

February 24, 2017

The purpose of this memo is to provide information on public records requests that is specific to the Department of Safety and Professional Services (DSPS).

DSPS receives public record requests in a number of ways. Most public record requests are received via US mail or by email. DSPS has a public records mailbox accessible from the DSPS website. In addition, the DSPS website contains a public records notice which sets out the procedure for making a request and information about fees. Here is the link to the public records notice: <http://dsps.wi.gov/other-services/open-records-notice-and-requests>

Records requests should always be considered a priority. If you are an employee of DSPS and you receive a request you should immediately notify your supervisor or a record custodian. Any records that may be covered by the request should be preserved. **If you are a member of a board or council and you receive a request you should immediately notify your primary contact at DSPS, normally the executive director of your board or council.** Again, any records that may be covered by the request should be preserved. The record request should be forwarded to the supervisor, custodian or executive director within one business day.

Deputy record custodians process the requests. The custodians will work in conjunction with the DSPS public information officer on requests involving media or legislative issues. The custodians will also work with the employees or board/council members if there is a need to search emails or other records in possession of the employee or board/council member. The goal is for the custodian to provide a response as soon as practicable. For this reason, cooperation with the custodians is essential.

The agency record custodian is Michael Berndt.

The following lists reflect deputy record custodians for each agency division:

DLSC

Meena Balasubramanian
Beth Cramton
Zach Hendrickson
Terri Rees

DPCP

Kris Hendrickson

DMS/Office of Sec.

Michael Berndt
Alicia Bork

DPD

Shawn Leatherwood

DIS/Field Offices

Peggy Thran

Public records are retained for periods of time set out in Record Destruction Authorizations, commonly called RDAs, or as required by the General Record Schedules. If you have questions about how long some record is supposed to be retained, please talk with you supervisor. Record officers update the agency RDAs and are familiar with the General Record Schedules. The agency record officers are Michael Berndt and Peggy Thran.

The guidance below provides a summary of the prohibitions on solicitation and acceptance of items of value under Wisconsin law. This guidance does not provide a comprehensive overview of the regulations that apply to state officials. For further information, please consult the Wisconsin Ethics Commission (<http://ethics.wi.gov/content/resources>) and Chapters 13 and 19 of the Wisconsin Statutes.

Lobbying law. Chapter 13, Wisconsin Statutes.

General Rule: Members of state agencies, boards, commissions, or councils that have rulemaking authority cannot **solicit** or **accept** anything of pecuniary value from a lobbyist or lobbying principal, even if they offer to pay for it. (§13.62, §13.625, 80 OAG 205). [Involvement in rulemaking is defined very broadly; you are likely considered to be involved in rulemaking just by virtue of the fact that you are appointed to a board, commission or council with rulemaking authority. §13.62(3)]. *Note that the Wisconsin Ethics Commission recently withdrew a formal opinion that allowed agency officials to remove themselves from the prohibitions of the lobbying law by refraining from engaging in rulemaking activities.*

Applies to members of boards with rule-making authority (“agency officials”). [Defined in §13.62(3)].

Exceptions:

- If the thing provided by a principal (not an individual lobbyist) is available to the general public on the same terms and conditions and is available to anyone who wants it and who meets the criteria for eligibility. [§13.625(2); 80 OAG 205]. For example, a member of the State Bar could attend a generally advertised continuing legal education conference put on by the State Bar (a lobbying principal) so long as it was available to anyone who wished to attend and met the criteria for eligibility, such as membership in the State Bar.
 - The criteria for eligibility must be:
 - Established and readily identifiable; and
 - Drawn without the purpose or effect of giving a preference to or conferring an advantage upon you.
 - There must be no offer or notice of availability directed to you that gives you an advantage.
- The lobbyist or principal is your employer and the thing provided does not exceed what the employer customarily provides to all employees (e.g., a paycheck). [§13.625(6r)]. (*Note that one’s status as a lobbyist does not prevent service as an agency official.*)
- The expense is provided as a benefit to the state, such as meals, transportation or lodging in connection with an event related to your state duties, which the state would otherwise pay. [§13.625(7); §19.56(3)(a)].
- Informational or educational materials. [§13.625(6t)].
- The lobbyist is a relative or resides in the same household [§13.625(6)].

*All lobbyists and lobbying principals are required to register here: <https://lobbying.wi.gov/Home/Welcome>.

Ethics Law. Chapter 19, Wisconsin Statutes.

General Rule: No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. [§19.45(2); §19.42(2)].

Applies to individuals appointed by the governor, and other positions defined in Wis. Stat. 19.42(13).

Exceptions: (*Note that these exceptions are to the ethics code only. They are not exceptions to prohibitions under the lobbying code.*)

- The thing offered is unrelated to your state position (e.g. a family member or long-time friend).
- The expense is provided as a benefit to the state, such as meals, transportation or lodging in connection with an event related to your state duties which the state would otherwise pay. [§19.56(3)(a)].

**IF YOU HAVE ANY DOUBT IF SOMETHING IS PERMITTED,
ASK YOUR LEGAL OFFICE OR THE ETHICS COMMISSION**