



**MESSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Tom Ryan (608) 266-2112
June 5, 2018**

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 March 20, 2018 (4-10)**
- 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 Krizenesky – 07/01/2018
 - e. Mark Richardson – 07/01/2018
 - 3. Wis. Stat. s 15.085 (3)(b) – Biannual Meeting with the Medical Examining Board
- D. Legislative/Administrative Rule Matters (11-16)**
 - 1. Scope Statement for MTBT 4, Relating to Requirements for Renewal and Reinstatement
 - 2. Adoption Order for MTBT 7, Relating to Continuing Education
 - 3. Update on Other Legislation and Pending or Possible Rulemaking Projects
- E. Draft Resolution for the Federation of State Massage Therapy Boards’ Model Human Trafficking Regulation (17-19)**
- F. Federation of State Massage Therapy Boards (FSMTB) Matters**
 - 1. FSMTB 2018 Annual Meeting on October 4-6, 2018 in Salt Lake City UT
- 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. 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

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

1. Proposed Stipulations, Final Decisions and Orders

- a. 16 MAB 002 – Liqing Wang **(20-25)**
- b. 17 MAB 010 – Xianhua Zeng **(26-31)**
- c. 17 MAB 012 – Huaying Sun **(32-37)**

2. Case Closings

- a. 16 MAB 015 – D.P. **(38-42)**
- b. 18 MAB 025 – A.G. **(43-49)**

K. 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

L. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

M. Open Session Items Noticed Above Not Completed in the Initial Open Session

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

O. **Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates**

P. Future Agenda Items

ADJOURNMENT

NEXT MEETING DATE: SEPTEMBER 4, 2018

 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
March 20, 2018**

PRESENT: Darlene Campo, Robert Coleman, Carla Hedtke, Elizabeth Krizenesky (*via GoToMeeting, excused at 12:46 p.m.*), Mark Richardson

STAFF: Tom Ryan, Executive Director; Dale Kleven, Administrative Rules Coordinator; Kimberly Wood, Program Assistant Supervisor-Advanced; and other Department Staff

CALL TO ORDER

Elizabeth Krizenesky, Chair, called the meeting to order at 9:00 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES

MOTION: Darene moved, seconded by Mark Richardson, to approve the minutes of December 6, 2017 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

Election of Officers

BOARD CHAIR

NOMINATION: Carla Hedtke nominated Darlene Campo for the Office of Board Chair.

NOMINATION: Darlene Campo nominated Elizabeth Krizenesky for the Office of Board Chair. The nomination was declined.

Tom Ryan called for nominations three (3) times.

Darlene Campo was elected as Chair by unanimous consent.

VICE CHAIR

NOMINATION: Darlene Campo nominated Robert Coleman for the Office of Vice Chair.

Tom Ryan called for nominations three (3) times.

Robert Coleman was elected as Vice Chair by unanimous consent.

SECRETARY

NOMINATION: Elizabeth Krizenesky nominated Carla Hedtke for the Office of Secretary.

Tom Ryan called for nominations three (3) times.

Carla Hedtke was elected as Secretary by unanimous consent.

2018 ELECTION RESULTS	
Board Chair	Darlene Campo
Vice Chair	Robert Coleman
Secretary	Carla Hedtke

Appointment of Liaisons and Alternates

2018 LIAISON APPOINTMENTS	
Credentialing Liaison(s)	Darlene Campo Alternate – Carla Hedtke
Monitoring Liaison(s)	Mark Richardson Alternate – Carla Hedtke
Division of Legal Services and Compliance Liaison(s)	Robert Coleman Alternate – Mark Richardson
Office of Education and Examinations Liaison (s)	Darlene Campo Alternate – Mark Richardson
Legislative Liaison(s)	Elizabeth Krizenesky Alternate – Carla Hedtke
Travel Liaison (s)	Darlene Campo Alternate – Robert Coleman
Website Liaison(s)	Robert Coleman Alternate – Elizabeth Krizenesky
Administrative Rules Liaison(s)	Elizabeth Krizenesky Alternate – Darlene Campo
Professional Assistance Procedure (PAP) Liaison(s)	Darlene Campo Alternate – Carla Hedtke
Screening Panel	Robert Coleman, Carla Hedtke, Mark Richardson

MOTION: Mark Richardson moved, seconded by Darlene Campo, to affirm the Chair's appointment of liaisons for 2018. Motion carried unanimously.

Delegation of Authorities

Occupational Licensure Study Liaison

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to designate the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, as the Board’s liaison to represent and speak on behalf of the Board regarding occupational license review and related matters. Motion carried unanimously.

Document Signature Delegation

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, 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.

Delegated Authority for Urgent Matters

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, that, in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chair (or, in the absence of the Chair, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Monitoring Delegations

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to adopt the “Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor” as presented. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison (Exempting Denial Decisions to Full Board)

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to delegate authority to the Credentialing Liaison(s) to address all issues related to credentialing matters, including the authority to issue an “intent to deny” letter when applicable. Denial decisions should be referred to the full Board for final determination. Motion carried unanimously.

Delegation of Authority to DSPS When Rule and Statute Criteria is Met

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to delegate credentialing authority to DSPS to act upon applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, 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.

Voluntary Surrenders

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender of a license by a licensee who has a pending complaint or disciplinary matter per Wis. Stat. § 440.19. Motion carried unanimously.

Continuing Education or Education Delegation(s)

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to delegate authority to the Office of Education and Examination Liaison(s) to address all issues related to CE, education and examinations. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Authorities

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to authorize Department staff to provide national regulatory related authorities with all Board member contact information that the Department retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to designate to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Delegation

MOTION: Elizabeth Krizenesky moved, seconded by Mark Richardson, to delegate authority to the Travel Liaison to approve any Board Member travel. Motion carried unanimously.

APPEARANCE: JEFFREY MILLER, APPLETON POLICE DEPARTMENT MUNICIPAL LICENSING ENFORCEMENT PROCEDURES AND EVALUATION OF EXEMPTION CLAIMS

MOTION: Mark Richardson moved, seconded by Robert Coleman, to delegate Elizabeth Krizenesky (primary) and Darlene Campo (alternate) to work with the Department to create a draft resolution for the Federation of State Massage Therapy Boards' model human trafficking regulation for full Board review. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

Scope Statement for MTBT 5, Relating to Unprofessional Conduct

MOTION: Mark Richardson moved, seconded by Darlene Campo, to approve the Scope Statement revising MTBT 5, relating to unprofessional conduct, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board moved to authorize the Chair to approve the Scope Statement for implementation no less than 10 days after publication. Motion carried unanimously.

Proposals for MTBT 2 and 3, Relating to Application for a License and Approved Training Programs

MOTION: Elizabeth Krizenesky moved, seconded by Robert Coleman, to approve the preliminary rule draft of MTBT 2 and 3, relating to application for a license and approved training programs, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

CLOSED SESSION

MOTION: Carla Hedtke moved, seconded by Mark Richardson, 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 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). 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 12:00 p.m.

RECONVENE TO OPEN SESSION

MOTION: Robert Coleman moved, seconded by Carla Hedtke, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:27 p.m.

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

MOTION: Darlene Campo moved, seconded by Mark Richardson, 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).

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

Administrative Warning

17 MAB 015

MOTION: Mark Richardson moved, seconded by Darlene Campo, to issue an Administrative Warning in the matter of DLSC Case Number 17 MAB 015. Motion carried unanimously.

Case Closings

16 MAB 015

MOTION: Darlene Campo moved, seconded by Mark Richardson, to table DLSC Case Number 16 MAB 015. Motion carried unanimously.

17 MAB 004

MOTION: Mark Richardson moved, seconded by Robert Coleman, to close case DLSC Case Number 17 MAB 004, against L.W., for No Violation. Motion carried unanimously.

17 MAB 007

MOTION: Robert Coleman moved, seconded by Mark Richardson, to close case DLSC Case Number 17 MAB 007, against A.C., for Prosecutorial Discretion (P3). Motion carried unanimously.

Proposed Stipulations, Final Decisions and Orders

15 MAB 050 – Jing Zhang

MOTION: Elizabeth Krizenesky moved, seconded by Carla Hedtke, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Jing Zhang, DLSC Case Number 15 MAB 050. Motion carried unanimously.

16 MAB 005 – Christine A. Ramm

MOTION: Darlene Campo moved, seconded by Mark Richardson, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Christine A. Ramm, DLSC Case Number 16 MAB 005. Motion carried unanimously.

16 MAB 005 – Sharon G. Hartjes

MOTION: Darlene Campo moved, seconded by Mark Richardson, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Sharon G. Hartjes, DLSC Case Number 16 MAB 005. Motion carried unanimously.

(Elizabeth Krizenesky was excused at 12:46 p.m.)

DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Robert Coleman 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 1:02 p.m.

**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: 5/23/18 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: 6/5/18	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. Scope Statement for MTBT 4 Relating to Requirements for Renewal and Reinstatement 2. Adoption Order for MTBT 7 Relating to Continuing Education 3. Update on 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>May 23, 2018</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.			

STATEMENT OF SCOPE

Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

Rule No.: Chapter MTBT 4

Relating to: Requirements for Renewal and Reinstatement

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The primary objective of the proposed rule is to clarify the requirements in ch. MTBT 4 for renewal and reinstatement of a license to practice as a massage therapist or bodywork therapist in Wisconsin.

Chapter MTBT 4 may also be revised to address incorrect or outdated references and ensure consistency with current standards for drafting style and format and applicable Wisconsin statutes.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Sections MTBT 4.02 and 4.04 contain the provisions for renewal and late renewal of a license to practice as a massage therapist or bodywork therapist in Wisconsin. These provisions are not clear concerning educational and examination requirements for late renewal and do not specify the requirements for reinstatement when a licensee has unmet disciplinary requirements, or a license has been revoked or surrendered. In addition, s. MTBT 4.04 does not reflect the requirement under s. 460.07 (2) (d), Stats., that a renewal application include evidence satisfactory to the Board that the applicant has current proficiency in the use of an automated external defibrillator (AED).

The proposed rule would create new policy concerning the requirements for late renewal and reinstatement of a license to practice as a massage therapist or bodywork therapist in Wisconsin. If the rules are not updated, these requirements will remain unclear.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.085 (5) (b), Stats., provides that an affiliated credentialing board, 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 440.08 (3) (b), Stats., provides the authority for the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board to promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements to restore the credential, in addition to the applicable requirements for renewal established under chs. 440 to 480, Stats., that the Board determines are necessary to protect the public health, safety or welfare. The rules may not require the holder to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that must be completed to obtain an initial credential from the Board.

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. The rules promulgated under this paragraph may not require a license holder to complete more than 24 hours of continuing education programs or courses of study in order to qualify for renewal of his or her license.”

Section 460.14 (3), Stats., provides “[t]he affiliated credentialing board may restore a license that has been suspended or revoked on such terms and conditions as the affiliated credentialing board may deem appropriate.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

70 hours

6. List with description of all entities that may be affected by the proposed rule:

Individuals applying for late renewal or reinstatement of a license to practice as a massage therapist or bodywork therapist in Wisconsin.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state’s economy as a whole.

Contact Person: Dale Kleven, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov, (608) 261-4472

Approved for publication:

Approved for implementation:

Authorized Signature

Authorized Signature

Date Submitted

Date Submitted

STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING
BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	MESSAGE THERAPY AND BODYWORK
MESSAGE THERAPY AND BODYWORK	:	THERAPY AFFILIATED
THERAPY AFFILIATED	:	CREDENTIALING BOARD
CREDENTIALING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 17-076)

ORDER

An order of the Massage Therapy and Bodywork Therapy 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:

Section 460.10 (1) (a), Stats.

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 rules clarify the requirement by providing continuing education must be completed during the 2-year period immediately preceding the renewal date under s. 440.08 (2) (a) 46r., Stats.

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

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

The rules were 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. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These 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.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708-8935, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 9:00 a.m. on December 6, 2017, to be included in the record of rule-making proceedings.

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 under s. 440.08 (2) (a) 46r., Stats.

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)

Dated _____

Agency _____

Chairperson
Massage Therapy and Bodywork
Therapy Affiliated Credentialing Board



Resolution Form

Title of Resolution: Creation of Model Ordinance to Combating Illicit Massage Businesses at the Local Level

Member Board/Committee Proposing Resolution: Wisconsin Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

WHEREAS the massage therapy and industry has spent enormous resources, especially since the 1980's, in promoting the value of legitimate therapy and attempting to protect the public by spearheading state regulation. As of 2018 only 3 states do not regulate massage therapy or massage therapists.

WHEREAS it has been made abundantly clear by the FSTMB's exhaustive 2017 Human Trafficking Task Force Report that the sex-trafficking industry continues to represent itself as legitimate massage therapy and bodywork therapy, endangering both the safety and reputations of massage therapists and bodywork therapists. Additionally the public seeking legitimate therapy is frequently defrauded by businesses staffed by unqualified and/or illicit practitioners.

WHEREAS the efficacy of disciplining licensees as well as unlicensed/illicit practitioners at the state level is hindered by lengthy regulatory procedures. Additionally, state regulatory boards have neither the legislative mandate nor the resources to seek out violators, relying solely on complaints submitted by the public. This allows illicit massage businesses to flourish depending upon local regulations.

WHEREAS local ordinances attempting to combat sex trafficking remain inconsistent from jurisdiction to jurisdiction yet local law enforcement is in the best position to fight this and willing to do so, given the right tools.

THEREFORE BE IT RESOLVED that the FSMTB draft a model ordinance that is neither punitive nor disrespectful of legitimate massage therapists or massage therapy businesses yet provides local law enforcement with effective tools to drive illicit businesses "out of town."

IMPLEMENTATION PLAN

Fiscal Note Attached, if necessary

EFFECTIVE DATE

GUIDELINES FOR WRITING A RESOLUTION

A resolution is needed any time a member board is proposing a new policy or making significant revisions to existing policy statements. Policy matters should be highlighted and documented in resolution format for discussion by the FSMTB Delegate Assembly.

An effective resolution is one that conveys a sense of the issue or problem that led to the proposed action,, provides an explanation or justification for the particular proposed solution, gives the reader enough background so he/she can understand what is being proposed, and makes it absolutely clear what people are voting on.

Typical resolutions have several parts:

1. Heading
 - a. The first line should be a brief descriptive title for the resolution, e.g., MBLEx Eligibility, FSMTB Membership Requirements.
 - b. The second line should be the name of the originating member board.
2. WHEREAS Statement(s)
 - a. Whereas clauses are where you describe the problem or issue, provide the history or context for the policy if important, explain the rationale for the resolution, why the policy solution being proposed solves the problem, and provide supporting information. They may include such things as the reason something is a problem, statements of timeliness/urgency, relevance to the massage therapy regulatory community, reasons why the FSMTB rather than another group needs to act on something, etc.
 - b. When these are well written, there is a kind of rolling logic to the statements. In some cases, the statements might be organized in chronological order.
 - c. While you should make sure you cover the topic well enough for an uninitiated reader to follow, typically a resolution should be one page or less, total. A very simple issue might require one or two WHEREAS statements. A more involved issue might require five or six WHEREAS statements, each a brief paragraph of several sentences.
3. THEREFORE BE IT RESOLVED Statement(s)
 - a. This is the action being taken. You should state EXACTLY what is to be voted upon. If the item is very brief, then it can be incorporated in this section of the resolution. If you are revising existing language, it is often helpful to include the old version so that the reader can compare the two. If the new or revised policy statement is long, then this section might say: "That the attached policy on (subject) be adopted effective (date)." Then attach the complete policy statement clearly identified at the top.
 - b. "Resolved" clauses should contain specific action items or policy statements. They should direct the FSMTB to do something or adopt a policy. They should NOT ask for action by specific committees/task forces or by groups other than the FSMTB.
 - c. "Resolved" clauses should be simple and direct. Only one issue should be addressed in each resolved clause. However, each resolved clause must stand alone and should not depend on any language in the "whereas" clauses or other resolved clauses.

4. Fiscal Consideration

Resolutions which will require a substantial allocation of FSMTB resources (money or staff time) should include a fiscal note.

5. Implementation

It is very important to state exactly how the new or revised policy will go into effect. For example, policies affecting MBLEx candidates are incorporated in the MBLEx Candidate Handbook and a reference should be made to a specific section of the Handbook that would be revised.

6. Effective Date

Include an effective date for the policy (effective immediately? some subsequent term?)