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**TELECONFERENCE/VIRTUAL  
MESSAGE THERAPY AND BODYWORK THERAPY  
AFFILIATED CREDENTIALING BOARD  
Room N208, 4822 Madison Yards Way, Madison  
Contact: Tom Ryan (608) 266-2112  
September 4, 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 June 5, 2018 (4-6)**
- 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
- D. 9:00 A.M. Public Hearing: CR 18-053 – MTBT 2 and 3, Relating to Application for a License and Approved Training Programs (7-20)**
- E. Legislative/Administrative Rule Matters (21-37)**
  - 1. Review of Draft Proposed Permanent Rules for MTBT 4, Relating to Requirements for Renewal and Reinstatement; and MTBT 5, Relating to Unprofessional Conduct
  - 2. Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108
  - 3. Update on Other Legislation and Pending or Possible Rulemaking Projects
- F. Federation of State Massage Therapy Boards (FSMTB) Matters (38-42)**
  - 1. 2018 FSMTB Annual Meeting on October 4-6, 2018 in Salt Lake City, UT
    - a. Board Discussion
    - b. Consideration of Bylaw Amendments and Resolutions
  - 2. **9:30 A.M. APPEARANCE:** Laura Simmons, FSMTB Director of Operations, Regarding FSMTB Licensing Database
- 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. **Case Closings**
  - a. 18 MAB 002 – G.C. **(43-47)**
  - b. 18 MAB 005 – S.A.G. **(48-53)**

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: DECEMBER 4, 2018**

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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 4822 Madison Yards Way, 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  
June 5, 2018**

**PRESENT:** Darlene Campo, Robert Coleman, Carla Hedtke, Elizabeth Krizenesky, Mark Richardson

**STAFF:** Tom Ryan, Executive Director; Dale Kleven, Administrative Rules Coordinator; Kate Stolarzyk, Bureau Assistant; and other Department Staff

**CALL TO ORDER**

Darlene Campo, Chair, called the meeting to order at 9:05 a.m. A quorum of five (5) members was confirmed.

**ADOPTION OF AGENDA**

**MOTION:** Carla Hedtke moved, seconded by Mark Richardson, to adopt the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES**

**Amendments to the Minutes**

- *Page 1: Under Approval of Minutes, change “Darene” to “Darlene Campo”*
- *Page 3: Under Document Signature Delegation, add “the” before “Executive Director”*
- *Page 3: Under Delegated Authority for Urgent Matters, change “it’s” to “its”*

**MOTION:** Robert Coleman moved, seconded by Mark Richardson, to approve the minutes of March 20, 2018 as amended. Motion carried unanimously.

**LEGISLATIVE/ADMINISTRATIVE RULE MATTERS**

**Scope Statement for MTBT 4, Relating to Requirements for Renewal and Reinstatement**

**MOTION:** Mark Richardson moved, seconded by Elizabeth Krizenesky, to approve the Scope Statement revising MTBT 4, relating to requirements for renewal and reinstatement, for submission to the Department of Administration and Governor’s Office and for publication. Additionally, the Board moves to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

**Adoption Order for MTBT 7, Relating to Continuing Education**

**MOTION:** Elizabeth Krizenesky moved, seconded by Robert Coleman, to approve the Adoption Order for Clearinghouse Rule 17-076, relating to continuing education. Motion carried unanimously.

**DRAFT RESOLUTION FOR THE FEDERATION OF STATE MASSAGE THERAPY  
BOARDS’ MODEL HUMAN TRAFFICKING REGULATION**

**MOTION:** Elizabeth Krizenesky moved, seconded by Mark Richardson, to approve the draft Resolution requesting a Federation of State Massage Therapy Boards (FSMTB) model human trafficking law. Motion carried unanimously.

**MOTION:** Mark Richardson moved, seconded by Carla Hedtke, to designate Darlene Campo or an alternate to be designated by the Department, in order of succession, to make any additional changes to the draft Resolution. Motion carried unanimously.

## **FEDERATION OF STATE MASSAGE THERAPY BOARDS (FSMTB) MATTERS**

### **FSMTB 2018 Annual Meeting, October 4-6, 2018 in Salt Lake City UT**

**MOTION:** Elizabeth Krizenesky moved, seconded by Robert Coleman, to authorize Darlene Campo or an alternate to be named later as the Board's delegate at the FSMTB 2018 Annual Meeting, October 4-6, 2018 in Salt Lake City, UT, authorize the attendance of the Board's Executive Director, and authorize travel. Motion carried unanimously.

### **CLOSED SESSION**

**MOTION:** Mark Richardson moved, seconded by Robert Coleman, 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 12:03 p.m.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Robert Coleman moved, seconded by Darlene Campo, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:17 p.m.

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

**MOTION:** Elizabeth Krizenesky moved, seconded by Robert Coleman, 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**

**Proposed Stipulations, Final Decisions and Orders**

***16 MAB 002 – Liqing Wang***

**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 Liqing Wang, DLSC Case Number 16 MAB 002. Motion carried unanimously.

***17 MAB 010 – Xianhua Zeng***

**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 Xianhua Zeng, DLSC Case Number 17 MAB 010. Motion carried unanimously.

***17 MAB 012 – Huaying Sun***

**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 Huaying Sun, DLSC Case Number 17 MAB 012. Motion carried unanimously.

**Case Closings**

***16 MAB 015***

**MOTION:** Darlene Campo moved, seconded by Carla Hedtke, to close case DLSC Case Number 16 MAB 015 against D.P., for insufficient evidence. Motion carried unanimously.

***17 MAB 025***

**MOTION:** Darlene Campo moved, seconded by Mark Richardson, to close case DLSC Case Number 17 MAB 025, against A.G., for no violation. Motion carried unanimously.

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

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

The meeting adjourned at 12:19 p.m.

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  <b>Dale Kleven</b> <b>Administrative Rules Coordinator</b>		<b>2) Date When Request Submitted:</b>  <b>8/22/18</b> Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b>  <b>Massage Therapy and Bodywork Therapy Affiliated Credentialing Board</b>			
<b>4) Meeting Date:</b>  9/4/18	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> <b>9:00 A.M. Public Hearing: CR 18-053 – MTBT 2 and 3 Relating to Application for a License and Approved Training Programs</b> <b>1. Review and Respond to Public Comments and Clearinghouse Report</b>  <b>Legislative and Administrative Rule Matters – Discussion and Consideration</b> <b>1. Review of Draft Proposed Permanent Rules for MTBT 4 Relating to Requirements for Renewal and Reinstatement and MTBT 5 Relating to Unprofessional Conduct</b> <b>2. Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108</b> <b>3. Update on Legislation and Pending or Possible Rulemaking Projects</b>	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled?</b>  <input type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>          			
<b>11) Authorization</b>			
<i>Dale Kleven</i>		<i>August 22, 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	
<b>Directions for including supporting documents:</b> <b>1. This form should be attached to any documents submitted to the agenda.</b> <b>2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.</b> <b>3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.</b>			

STATE OF WISCONSIN  
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING  
BOARD

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

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PROPOSED ORDER

An order of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board to renumber and amend MTBT 2.01 (3) (b) 3. and (g) and 3.01 (4) (b); to amend MTBT 2.01 (intro.), (1), (Note), (2), and (3) (intro.), (a), (Note), (b) (intro.), 1., and 2., (h), and (j), 2.015, 2.03 (1) (intro.), (a), (Note), (b), and (c) (intro.) and (2) (a) and (b), 2.04, and 3.01 (1) and (5) (a) to (f); and to create MTBT 2.01 (3) (b) 3. a., (Note), and b. and (g) 1. to 7. and 3.01 (4) (b) 1., (Note), and 2., relating to application for a license and approved training programs.

Analysis prepared by the Department of Safety and Professional Services.

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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:**

Section MTBT 1.02 (1) defines the term “accrediting agency” to mean either of the following:

- A regional or national accrediting agency recognized by the United States Department of Education.
- A state government agency or territorial government agency located in another state or territory of the United States or another country.

Section SPS 404.04 provides the criteria for approval of schools and programs of instruction by the Department of Safety and Professional Services.

**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. In addition, recent legislation (2017 Wisconsin Act 59) transferred responsibility for school approvals from the Educational Approval Board to the Department of Safety and Professional Services. The proposed rules create a requirement that a school not approved by the Department of Safety and Professional Services nor a technical college established pursuant to s. 38.02, Stats., have approval or accreditation that is in good standing from one of the following:

- An accrediting agency with recognition by the United States Department of Education that is current.
- A state government agency or territorial government agency located in the state or territory in which the school is located and whose criteria for approval of schools is substantially equivalent, as determined by the board, to the criteria under s. SPS 404.04.

The proposed rules revise s. MTBT 2.01 (3) (g) to reflect that 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). Section MTBT 2.01 (3) (g) is also revised to specify that the Massage and Bodywork Licensing Examination (MBLEx) offered by the Federation of State Massage Therapy Boards is an approved examination.

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 while maintaining 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 (MBLEx) 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 1) classroom instruction subject matter and hands-on instruction activities; 2) number of faculty and faculty and faculty assistant qualifications; 3) maintenance of student records; 4) having written plans of organization and study; and 5) 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 (MBLEx); 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 (MBLEx); 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 Therapy Affiliated Credentialing Board.

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

The proposed 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 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](mailto: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, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at [DSPSAdminRules@wisconsin.gov](mailto: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, P.O. Box 8366, Madison, WI 53708-8366, or by email to [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov). Comments must be received at or before the public hearing to be held at 9:00 a.m. on September 4, 2018, to be included in the record of rule-making proceedings.

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TEXT OF RULE

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

**MTBT 2.01 Application for a license.** An ~~individual applying~~ applicant for a ~~certificate as a license to practice~~ massage therapist therapy or bodyworker bodywork therapy 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 at ~~1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ (608) 266-2112, [dsps@wisconsin.gov](mailto:dsps@wisconsin.gov), 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~~ department of safety and professional services 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~~ Department of Safety and Professional Services at (608) 266-2112 or [dsps@wisconsin.gov](mailto:dsps@wisconsin.gov).

(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:

1. A school of massage therapy or bodywork approved by the ~~educational approval board~~ department of safety and professional services, 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).

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.~~ that, at the time the course of study is completed, has approval or accreditation that is in good standing from one of the following:

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

**MTBT 2.01 (3) (b) 3. a.** An accrediting agency under s. MTBT 1.02 (1) (a) whose recognition by the United States department of education is current.

**Note:** A list of recognized accrediting agencies is available from the United States Department of Education's website at [www.ed.gov](http://www.ed.gov).

**b.** An accrediting agency under s. MTBT 1.02 (1) (b) that is located in the same state or territory in which the school is located and whose criteria for approval of schools is substantially equivalent, as determined by the board, to the criteria under s. SPS 404.04.

SECTION 4. MTBT 2.01 (3) (g) is renumbered MTBT 2.01 (3) (g) (intro.) and amended to read:

**MTBT 2.01 (3) (g) (intro.)** ~~Has passed either the national certification examination for therapeutic massage and bodywork or the national certification examination for therapeutic massage that are offered by the 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 or a substantially equivalent examination approved by the department.~~ one of the following examinations:

SECTION 5. MTBT 2.01 (3) (g) 1. to 7. are created to read:

**MTBT 2.01 (3) (g) 1.** The Massage and Bodywork Licensing Examination offered by the Federation of State Massage Therapy Boards.

**2.** The Board Certification Examination for Therapeutic Massage and Bodywork offered by the National Certification Board for Therapeutic Massage and Bodywork.

**3.** The National Certification Examination for Therapeutic Massage and Bodywork offered prior to February 1, 2015, by the National Certification Board for Therapeutic Massage and Bodywork.

**4.** The National Certification Examination for Therapeutic Massage offered prior to February 1, 2015, by the National Certification Board for Therapeutic Massage and Bodywork.

**5.** The Asian Bodywork Therapy Examination offered prior to December 31, 2012, by the National Certification Commission for Acupuncture and Oriental Medicine.

6. An 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.

7. An examination that is substantially equivalent, as determined by the board, to an examination under subs. 1. to 5.

SECTION 6. MTBT 2.01 (3) (h) and (j) are amended to read:

**MTBT 2.01 (3) (h)** Has passed an examination on state laws and administrative rules governing massage therapy or bodywork in this state.

**(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 7. MTBT 2.015 is amended to read:

**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 board~~ 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~~ National Certification Board for ~~therapeutic massage~~ Therapeutic Massage and ~~bodywork~~ 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~~ National Commission for ~~certifying agencies~~ Certifying Agencies.

SECTION 8. MTBT 2.03 (1) (intro.), (a), (Note), (b), and (c) (intro.) and (2) (a) and (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~~ 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) (intro.) Submit evidence~~ Evidence satisfactory to the board that the ~~individual~~ applicant meets all of the following requirements:

(2) (a) Certification by the ~~national certification board~~ National Certification Board for ~~therapeutic massage~~ Therapeutic Massage and ~~bodywork~~ Bodywork or any other organization accredited by the ~~national commission~~ National Commission for ~~certifying agencies~~ Certifying Agencies to certify massage therapy or bodywork.

~~(b) Completion~~ Passing an examination 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. at the time of the applicant's graduation.

SECTION 9. 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~~ licensure as a massage therapist or bodyworker.

SECTION 10. MTBT 3.01 (1) is amended to read:

**MTBT 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~~ department of safety and professional services shall submit an official transcript or other official documentation showing dates and total classroom hours attended and a description of the curriculum completed establishing that ~~he or she~~ the applicant has completed an approved training program.

SECTION 11. MTBT 3.01 (4) (b) is renumbered MTBT 3.01 (4) (b) (intro.) and amended to read:

**MTBT 3.01 (4) (b) (intro.)** 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.~~ that, at the time of the applicant's graduation, has approval or accreditation that is in good standing from one of the following:

SECTION 12. MTBT 3.01 (4) (b) 1., (Note), and 2. are created to read:

**MTBT 3.01 (4) (b) 1.** An accrediting agency under s. MTBT 1.02 (1) (a) whose recognition by the United States department of education is current.

**Note:** A list of recognized accrediting agencies is available from the United States Department of Education's website at [www.ed.gov](http://www.ed.gov).

**2.** An accrediting agency under s. MTBT 1.02 (1) (b) that is located in the same state or territory in which the school is located and whose criteria for approval of schools is substantially equivalent, as determined by the board, to the criteria under s. SPS 404.04.

SECTION 13. MTBT 3.01 (5) (a) to (f) are amended to read:

**(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 14. 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.

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(END OF TEXT OF RULE)

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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

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

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

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

The Department estimates one-time administrative costs of \$1,844. These costs may be absorbed in the agency budget.

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

The benefit to implementing the rule is providing clarity to the requirements under chs. MTBT 2 and 3 relating to approved training programs. If the rule is not implemented, these requirements will remain unclear.

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14. Long Range Implications of Implementing the Rule

The long-range implication of implementing the rule is clarity and less difficulty in complying with and administering the requirements under chs. MTBT 2 and 3 relating to approved training programs.

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15. Compare With Approaches Being Used by Federal Government

None

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

### **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 while maintaining 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 (MBLEx) 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 1) classroom instruction subject matter and hands-on instruction activities; 2) number of faculty and faculty and faculty assistant qualifications; 3) maintenance of student records; 4) having written plans of organization and study; and 5) 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 (MBLEx); 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)

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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 (MBLEx); 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.

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17. Contact Name

Dale Kleven

18. Contact Phone Number

(608) 261-4472

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



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Scott Grosz**  
*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Margit Kelley**  
*Clearinghouse Assistant Director*

**Jessica Karls-Ruplinger**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 18-053

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]**

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

a. In SECTIONS 3 and 12 of the text of the proposed rule, the rule refers to “an accrediting agency, under s. MTBT 1.02 (1) (a), whose recognition by the United States department of education is current”. This might be more directly written as follows: “an accrediting agency, under s. MTBT 1.02 (1) (a), who is recognized by the U.S. department of education”. “Current” is implied by the present tense.

b. In SECTION 11 of the proposed rule, the board might consider changing “has approval or accreditation that is in good standing” to “is approved or accredited”.

STATE OF WISCONSIN  
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING  
BOARD

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

PROPOSED ORDER

An order of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board to repeal MTBT 4.04 (2) (a) and (b); to renumber and amend MTBT 4.04 (2) (intro.); to amend ch. MTBT 4 (title), 4.02, 4.03, and 4.04 (intro.) and (1) (b), and (c); and to create MTBT 4.04 (1) (d) and (e) and 4.05, relating to requirements for renewal and reinstatement.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

**Statutes interpreted:**

Section 460.14 (3), Stats.

**Statutory authority:**

Sections 15.085 (5) (b), 440.08 (3) (b), and 460.10 (1) (a), Stats.

**Explanation of agency authority:**

Section 15.085 (5) (b), Stats., provides 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 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.”

**Related statute or rule:**

Chapter MTBT 7 provides continuing education requirements for renewal of a license as a massage therapist or bodywork therapist.

**Plain language analysis:**

Sections MTBT 4.02 and 4.04 contain the provisions for renewal and late renewal of a license as a massage therapist or bodywork therapist. 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 rules clarify the requirements in ss. MTBT 4.02 and 4.04 for renewal and late renewal of a license and create s. MTBT 4.05 to specify the requirements for reinstatement of a license. The proposed rules also update provisions throughout ch. MTBT 4 for clarity and to conform with current drafting standards and applicable Wisconsin statutes.

**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 requirements for renewal and restoration of a license to practice massage therapy in the state of Illinois (68 Ill. Adm. Code 1284.60 and 1284.80).

The holder of a license may renew the license during the month preceding the expiration date by paying the required fee and completing the continuing education requirements under 68 Ill. Adm. Code 1284.90.

A person seeking restoration of a license after it has expired or has been placed on inactive status for less than 5 years must file an application with the required fee and proof of 24 hours of continuing education as defined in 68 Ill. Adm. Code 1284.90 in the 2 years immediately preceding the restoration application.

A person seeking restoration of a license after it has expired or has been placed on inactive status for 5 years or more must file an application with the required fee, proof of 24 hours of continuing education as defined in 68 Ill. Adm. Code 1284.90 in the 2 years immediately preceding the restoration application, and one of the following:

- Certification of current licensure and proof of current active practice in another jurisdiction.
- An affidavit attesting to military service (any person seeking restoration of a license within 2 years after discharge from military service must pay the current renewal fee, but is not required to submit proof of meeting the continuing education requirements).

- Proof of successful completion of an exam approved by IDFPR within 2 years prior to the restoration application.

**Iowa:**

Rules of the Iowa Board of Massage Therapy specify requirements for renewal, reactivation, and reinstatement of a license to practice massage therapy in the state of Iowa (645 IAC 131.8, 131.14, and 131.15).

A licensee seeking renewal must submit a completed renewal application and renewal fee before the license expiration date, meet the continuing education requirements under 645 IAC 133.2, and certify completion of all training in child and dependent adult abuse identification and reporting required under 645 IAC 131.8(4).

To apply for reactivation of an inactive license, a licensee must submit all of the following:

- A completed reactivation application and reactivation fee
- Verification of completing 16 hours of continuing education within 2 years of application
- Verification of the status of the license from every jurisdiction in which the applicant practiced massage therapy during the time the Iowa license has been inactive
- If the license has been on inactive status for more than 5 years, verification of successful completion of a Board-approved examination within 2 years of application.

A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reactivation of the license as provided above and apply for and receive reinstatement of the license. The application for reinstatement must, as required under 645 IAC 11.31, be filed in accordance with any applicable terms and conditions of the order of revocation or suspension. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, the application may not be filed until one year from the date of the order or the date of voluntary surrender. The application must allege facts which, if established, will be sufficient to enable the board to reinstate the license.

**Michigan:**

Rules of the Michigan Board of Massage specify requirements for renewal of a license and relicensure to practice massage therapy in the state of Michigan (Mich Admin Code, R 338.719 and R 338.731).

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 in activities approved by the Board during the 3 years immediately preceding the application for renewal. Submission of an application for renewal and required fee constitutes the applicant's certification of compliance with these requirements.

An applicant whose license has lapsed for less than 3 years preceding the date of application may be relicensed if the applicant submits a completed application and required fee along with verification of having completed at least 18 hours of Board-approved continuing education during the 3 years immediately preceding application.

An applicant whose license has lapsed for 3 years or more preceding the date of application may be relicensed if the applicant submits a completed application and required fee. In addition, the applicant must satisfy one of the following requirements:

- Successful completion of the Massage and Bodywork Licensing Examination (MBLEX) or the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB)
- Registration or licensure as a massage therapist in another state during the 3 years immediately preceding application.

**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 requirements in ch. MTBT 4 for renewal and reinstatement of a license as a massage therapist or bodywork therapist. 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](mailto: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, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov).

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TEXT OF RULE

SECTION 1. Chapter MTBT 4 (title) is amended to read:

**REQUIREMENTS FOR RENEWAL AND REINSTATEMENT**

SECTION 2. MTBT 4.02 and 4.03 are amended to read:

**MTBT 4.02 Renewal of license.** ~~In order to~~ To renew a license, ~~on or before the renewal date, the license holder~~ a licensee shall, by the renewal date under s. 440.08 (2) (a) 46r., Stats., and s. MTBT 4.01, submit all of the following to the board:

- (1) ~~A renewal~~ An application for renewal on a form provided by the board.
- (2) The renewal fee required under s. 440.08 (2) ~~(a) 46r. (c),~~ Stats.
- (3) Evidence satisfactory to the board ~~that he or she~~ the licensee 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.
- (4) Evidence satisfactory to the board ~~that he or she~~ the licensee 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.
- (5) ~~Beginning with the biennial registration period commencing on March 1, 2015, unless granted a waiver under s. MTBT 7.02 (4), each licensee is required to complete 24 hours of continuing education prior to renewal of a license to practice as a massage therapist or bodywork therapist, except that, a new licensee shall not be required to comply with the continuing education requirements for the first renewal of a license. The signed statement required under s. MTBT 7.02 (3).~~

**4.03 Failure to renew.** A ~~license holder~~ licensee who fails to renew a license by the applicable renewal date may not use any title or description that implies that he or she is credentialed by the board as a massage therapist or bodywork therapist until ~~his or her~~ the license is renewed under s. MTBT 4.04 or reinstated under s. MTBT 4.05.

SECTION 3. MTBT 4.04 (intro.) and (1) (b) and (c) are amended to read:

**MTBT 4.04 (intro.) Late renewal.** A massage therapist or bodywork therapist who fails to renew ~~his or her~~ a license by the renewal date may renew the license by satisfying ~~all~~ one of the following requirements:

- (1) (b) The ~~applicable~~ renewal fees fee and late fee required under s. 440.08 (2) ~~(a) (c)~~ and (3), Stats.
- (c) Evidence satisfactory to the board ~~that he or she~~ the applicant 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.

SECTION 4. MTBT 4.04 (1) (d) and (e) are created to read:

**MTBT 4.04 (1) (d)** Evidence satisfactory to the board 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), Stats., to provide the instruction.

(e) The signed statement required under s. MTBT 7.02 (3).

SECTION 5. MTBT 4.04 (2) (intro.) is renumbered MTBT 4.04 (2) and amended to read:

**MTBT 4.04 (2)** If applying 5 years or more after the renewal date, satisfying the requirements ~~in~~ under sub. (1), and submitting ~~proof~~ evidence of ~~all of the following~~: successful completion of educational coursework or an examination required by the board to ensure protection of the public health, safety, and welfare. Except as provided under s. MTBT 4.05 (1), this subsection does not apply to licensees who have unmet disciplinary requirements or whose licenses have been surrendered or revoked.

SECTION 6. MTBT 4.04 (2) (a) and (b) are repealed.

SECTION 7. MTBT 4.05 is created to read:

**MTBT 4.05 Reinstatement.** A massage therapist or bodywork therapist who has unmet disciplinary requirements and has failed to renew a license within 5 years of the renewal date or whose license has been surrendered or revoked may apply for reinstatement of the license by submitting all of the following:

- (1) Evidence of completion of the requirements under s. MTBT 4.04 (2).
- (2) Evidence of completion of disciplinary requirements, if applicable.
- (3) Evidence of rehabilitation or change in circumstances warranting reinstatement of the license.

SECTION 8. 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.

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(END OF TEXT OF RULE)

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## Chapter MTBT 4

### REQUIREMENTS FOR RENEWAL AND REINSTATEMENT

**MTBT 4.01 License expiration.** Licenses for massage therapists and bodywork therapists expire on March 1 of each odd-numbered year.

**MTBT 4.02 Renewal of license.** ~~In order to To~~ renew a license, ~~on or before the renewal date, the license holder a licensee~~ shall, ~~by the renewal date under s. 440.08 (2) (a) 46r., Stats., and s. MTBT 4.01,~~ submit all of the following to the board:

- (1) ~~A renewal~~ An application for renewal on a form provided by the board.
- (2) The renewal fee required under s. 440.08 (2) ~~(a) 46r. (c)~~, Stats.
- (3) Evidence satisfactory to the board ~~that he or she the licensee~~ 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.
- (4) Evidence satisfactory to the board ~~that he or she the licensee~~ 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.
- (5) ~~Beginning with the biennial registration period commencing on March 1, 2015, unless granted a waiver under s. MTBT 7.02 (4), each licensee is required to complete 24 hours of continuing education prior to renewal of a license to practice as a massage therapist or bodywork therapist, except that, a new licensee shall not be required to comply with the continuing education requirements for the first renewal of a license. The signed statement required under s. MTBT 7.02 (3).~~

**MTBT 4.03 Failure to renew.** A ~~license holder licensee~~ who fails to renew a license by the applicable renewal date may not use any title or description that implies that he or she is credentialed by the board as a massage therapist or bodywork therapist until ~~his or her the~~ license is renewed under s. MTBT 4.04 or reinstated under s. MTBT 4.05.

**MTBT 4.04 Late renewal.** A massage therapist or bodywork therapist who fails to renew ~~his or her a~~ license by the renewal date may renew the license by satisfying all one of the following requirements:

- (1) If applying less than 5 years after the renewal date, submitting to the board all of the following:
  - (a) An application for renewal on a form provided by the board.
  - (b) The applicable renewal ~~fees fee and late fee~~ required under s. 440.08 (2) ~~(a) (c)~~ and (3), Stats.
  - (c) Evidence satisfactory to the board ~~that he or she the applicant~~ 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.
  - (d) Evidence satisfactory to the board 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), Stats., to provide the instruction.
  - (e) The signed statement required under s. MTBT 7.02 (3).
- (2) If applying 5 years or more after the renewal date, satisfying the requirements ~~in~~ under sub. (1), and submitting proof evidence of all of the following: successful completion of educational coursework or an examination required by the board to ensure protection of the public health, safety, and welfare. Except as provided under s. MTBT 4.05 (1), this subsection does not apply to licensees who have unmet disciplinary requirements or whose licenses have been surrendered or revoked.

~~(a) Successful completion of educational course work required by the board to ensure protection of the public health, safety, and welfare.~~

~~(b) Successful completion of an examination required by the board to ensure protection of the public health, safety, and welfare.~~

**MTBT 4.05 Reinstatement.** A massage therapist or bodywork therapist who has unmet disciplinary requirements and has failed to renew a license within 5 years of the renewal date or whose license has been surrendered or revoked may apply for reinstatement of the license by submitting all of the following:

- (1) Evidence of completion of the requirements under s. MTBT 4.04 (2).
- (2) Evidence of completion of disciplinary requirements, if applicable.
- (3) Evidence of rehabilitation or change in circumstances warranting reinstatement of the license.

STATE OF WISCONSIN  
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING  
BOARD

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

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PROPOSED ORDER

An order of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board to repeal MTBT 5.03 (2) (intro.); to renumber and amend MTBT 5.03 (1) and (2) (a) to (c); and to amend MTBT 5.02 (2), (6), (11), (14), (15) (intro.) and (c), (20), (24), (25), (26) (intro.), (a), and (b), (28), and (29), 5.03 (3) and (Note), and 5.04, relating to unprofessional conduct.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Section 440.03 (4m), 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 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 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:**

Chapter MTBT 7 provides continuing education requirements for renewal of a license as a massage therapist or bodywork therapist. As provided under s. MTBT 5.02 (24), failing to complete these requirements is considered unprofessional conduct.

**Plain language analysis:**

Section MTBT 5.04 is revised to comply with s. 440.03 (4m), Stats., as created by 2017 Wisconsin Act 59. Under this provision, the Board may require a credential holder to submit proof of completing continuing education programs or courses only if a complaint is made against the credential holder. Other provisions throughout ch. MTBT 5 have been revised to ensure consistency with current standards for drafting style and format and applicable Wisconsin statutes.

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

None.

**Comparison with rules in adjacent states:**

**Illinois:**

Illinois' continuing education requirements include provisions for retention and production of evidence of compliance [68 Ill. Admin. Code 1284.90 d) 2)]. The Division of Professional Regulation of the Illinois Department of Financial and Professional Regulation may require additional evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each applicant for renewal to retain or otherwise produce evidence of such compliance. Such additional evidence is required in the context of the Division's random audit.

**Iowa:**

Iowa's continuing education requirements include provisions for retention and production of evidence of compliance (645 IAC 4.11). The Iowa Board of Massage Therapy may select licensees for audit following license renewal. Upon audit, a licensee is required to provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. All licensees must retain documentation of compliance with the continuing education requirements for two years following license renewal.

**Michigan:**

Michigan's continuing education requirements include provisions for certification of compliance and retention of evidence of compliance [Mich Admin Code, R 338.731 (3)]. Submission of an application for renewal constitutes an applicant's certification of compliance with the continuing education requirements, and all licensees are required to retain documentation of meeting the requirements for a period of 4 years from the date of applying for license 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 were developed by reviewing the provisions of ch. MTBT 5 to ensure consistency with current standards for drafting style and format and applicable Wisconsin statutes. 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, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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TEXT OF RULE

SECTION 1. MTBT 5.02 (2), (6), (11), (14), (15) (intro.) and (c), (20), (24), (25), (26) (intro.), (a), and (b), (28), and (29) are amended to read:

**MTBT 5.02 (2)** Being convicted of ~~any of the following: ss.~~ an offense under s. 940.22, 940.225, 944.15, 944.17, 944.30 (1m), 944.31, 944.32, 944.33, 944.34, 948.02, 948.02 5, 948.08, 948.085, 948.09, 948.095, and or 948.10, Stats.

**(6)** Knowingly, negligently, or recklessly making any written or oral statement, ~~written or oral, in the course of while~~ practicing massage therapy, ~~which~~ that is likely to deceive, defraud, mislead, or create an unacceptable risk of harm to a client, the public, or both.

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

**(14)** Divulging any information that ~~a client gives in confidence to the licensee or any other information that the licensee obtains about a client in the course of practicing massage therapy or bodywork therapy that a reasonable person in the client's position would want kept confidential unless the information is otherwise required by law to be disclosed or the client specifically authorizes the disclosure of the information~~ is required under s. 460.11 (2), Stats., to be kept confidential.

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

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

**(20)** Failing to provide clean clothing, linens, ~~and~~ or equipment.

**(24)** Failing to complete the continuing education requirements ~~within the time period established by~~ under s. MTBT 7.02 (3).

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

(26) ~~(intro.) Conviction of any federal or state law or rule, including criminal law, Subject to ss. 111.321, 111.322, and 111.335, Stats., being convicted of an offense the circumstances of which is substantially related~~ relate to the practice of massage therapy or bodywork therapy. For the purposes of this subsection, all of the following shall apply:

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

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

(28) Failing to display ~~his or her a license in his or her place of business or practice so that it can easily be seen and read by the public as required under s. 460.07 (1), Stats. In the case of a mobile practice, a licensee is required to be able to present his or her a license for public display.~~

(29) Failing to maintain liability insurance coverage ~~in an amount not less than of at least \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year, pursuant to as required under s. 460.05 (1) (g), Stats.~~

SECTION 2. MTBT 5.03 (1) is renumbered MTBT 5.03 (1) (intro.) and amended to read:

**MTBT 5.03 (1) (intro.)** ~~A license holder licensee shall submit a report to the board if he or she the licensee has reasonable cause to believe that another license holder licensee has committed a crime relating to prostitution under ss. 944.30 to 944.34, Stats., or has had sexual contact or sexual intercourse with a client. If the report relates to sexual contact or sexual intercourse with a client, the report may not identify the client unless the client has provided written consent for disclosure of this information. For purposes of this subsection, a licensee shall be considered to have reasonable cause upon occurrence of any of the following:~~

SECTION 3. MTBT 5.03 (2) (intro.) is repealed.

SECTION 4. MTBT 5.03 (2) (a) to (c) are renumbered MTBT 5.03 (1) (a) to (c) and amended to read:

**MTBT 5.03 (1) (a) Being** The licensee is informed by a person that, he or she has while a client of another licensee, that person engaged in an act with another licensee holder prohibited by ss. 944.30 to 944.34, Stats., with that licensee.

**(b) Being** The licensee is informed by a person that he or she, while a client of another licensee holder licensee, that person engaged in nonmarital sexual contact or sexual intercourse with the other licensee holder that licensee.

(c) ~~Being~~ The licensee is informed by another licensee holder licensee that he or she has ~~they~~ engaged in ~~nonmarital~~ sexual contact, ~~or~~ sexual intercourse, ~~with a client,~~ or ~~has done~~ an act prohibited by ss. 944.30 to 944.34, Stats., with a client.

SECTION 5. MTBT 5.03 (3) and (Note) are amended to read:

**MTBT 5.03 (3)** The report shall be made on a complaint form provided by the board. If the report relates to sexual contact or sexual intercourse with a client, the report may not identify the client unless the client has provided written consent for disclosure of this information. The board may use the report as the basis for an investigation under s. 460.14 (1), Stats.

**(Note)** Complaint forms are available from the ~~Department~~ department of Safety safety and ~~Professional Services, Division of Legal Services and Compliance,~~ 1400 East Washington Avenue, P.O. Box 7190, Madison, Wisconsin 53707, professional services at (608) 266-2112 or from the department's website at: <http://dsps.wi.gov>.

SECTION 6. MTBT 5.04 is amended to read:

**MTBT 5.04 Audits.** The board ~~may conduct a random~~ shall audit of any licensee ~~on a biennial basis~~ for compliance with the continuing education requirements ~~set forth in~~ under s. MTBT 7.02 any licensee who is under investigation by the board for alleged misconduct.

SECTION 7. 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.

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(END OF TEXT OF RULE)

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## Chapter MTBT 5 UNPROFESSIONAL CONDUCT

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

**MTBT 5.02 Unprofessional conduct.** "Unprofessional conduct" includes the following, or aiding, abetting, or conspiring the same:

- (1) Violating s. 460.14 (2) (a) to (j), Stats., or any provision of a board order.
- (2) Being convicted of ~~any of the following: ss. an offense under s.~~ 940.22, 940.225, 944.15, 944.17, 944.30 (1m), 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.08, 948.085, 948.09, 948.095, ~~and or~~ 948.10, Stats.
- (3) Engaging in fraud, misrepresentation, or deceit in applying for or procuring a license to practice massage therapy or bodywork therapy, in connection with applying for or procuring periodic renewal of a license, or in otherwise maintaining a license.
- (4) Engaging in any act of fraud, deceit, or misrepresentation, including acts of omission to the board or any person acting on the board's behalf, including department of safety and professional services personnel.
- (5) Employing illegal or unethical business practices, including either of the following:
  - (a) Fraud, deceit, or misrepresentation in obtaining or attempting to obtain any fee or third-party reimbursement.
  - (b) Engaging in uninvited, in-person solicitation of actual or potential clients, who because of their particular circumstances are vulnerable to undue influence.
- (6) Knowingly, negligently, or recklessly making any written or oral statement, ~~written or oral, in the course of~~ while practicing massage therapy, ~~which that~~ is likely to deceive, defraud, mislead, or create an unacceptable risk of harm to a client, the public, or both.
- (7) Engaging in false, misleading, or deceptive advertising.
- (8) Failing to maintain accurate and timely records necessary for the continuity of a client's massage therapy or bodywork therapy treatment. Records are to be maintained for a period of at least 5 years.
- (9) Performing any act constituting the practice of massage therapy or bodywork therapy on any client without the client's informed consent or after the client has withdrawn informed consent, whether verbally or in writing, or either of the following:
  - (a) Failure to document informed consent.
  - (b) Failure to inform the client that any act of massage therapy may or will be performed by unlicensed personnel.
- (10) Any practice or conduct that falls below the standard of minimal competence within the profession that results in unacceptable risk of harm to the client, regardless of whether injury results.
- (11) Practicing as a massage therapist or bodywork therapist when physical or mental abilities are impaired by the use of controlled substances or other drugs, chemicals, or alcohol, or by other causes.
- (12) Practicing as a massage therapist or bodywork therapist with a mental or physical condition that impairs the ability of the licensee to practice within the standard of minimal competence or without exposing a client to an unacceptable risk of harm.
- (13) Practicing beyond the scope of massage therapy or bodywork therapy.
- (14) Divulging any information that ~~a client gives in confidence to the licensee or any other information that the licensee obtains about a client in the course of practicing massage therapy or bodywork therapy that a reasonable person in the client's position would want kept confidential unless the information is otherwise~~

~~required by law to be disclosed or the client specifically authorizes the disclosure of the information is required under s. 460.11 (2), Stats., to be kept confidential.~~

- (15) Engaging in sexually explicit conduct, sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a client, a client's immediate family member, or a person responsible for the client's welfare. For ~~the~~ purposes of this subsection, all of the following shall apply:
- (a) Sexual nature of contact shall be determined from the totality of the circumstances and is presumed when the massage therapist or bodywork therapist has contact with a client's intimate parts without legitimate professional justification for doing so.
- (b) An adult client shall continue to be considered a client for 6 months after the termination of professional services.
- (c) ~~If a~~ A client who is a minor, ~~he or she~~ shall continue to be considered a client for 2 years after the termination of services or for 2 years after the client reaches the age of majority, whichever is longer.
- (16) Engaging in any sexual contact or conduct with or in the presence of a client or former client who lacks the ability to consent for any reason, including age, medication, or psychological or cognitive disability.
- (17) Falsifying client records.
- (18) Failing to provide access to client records when requested by the board or the board's representative.
- (19) After a request by the board, failing to cooperate in a timely manner with the board's investigation of complaints filed against the licensee. There is a rebuttable presumption that a licensee who takes longer than 30 calendar days to respond to a request of the board has not acted in a timely manner under this subsection.
- (20) Failing to provide clean clothing, linens, ~~and~~ or equipment.
- (21) Failing to provide draping and treatment that ensures the safety and privacy of a client.
- (22) Permitting or assisting any person to perform acts constituting massage therapy or bodywork therapy without sufficient qualifications, necessary credentials, adequate informed consent, or adequate supervision. The licensed massage therapist or bodywork therapist is responsible for determining whether general, one-to-one, or on-premises supervision is necessary to protect the client from an unacceptable risk of harm. The licensed massage therapist or bodywork therapist retains responsibility for delegated or supervised acts unless the board determines that the delegate knowingly and willfully violated the supervisor's direction or instruction.
- (23) Failing to inform a client about contraindications of massage therapy or bodywork therapy as it related to the information provided on the informed consent or intake form completed by the client.
- (24) Failing to complete the continuing education requirements ~~within the time period established by~~ under s. MTBT 7.02 (3).
- (25) Having an adverse action against a credential pertaining to the practice of massage therapy or bodywork therapy by any agency of this or another state, or by an agency or authority within the federal government. This subsection applies whether the adverse action is accompanied by findings of negligence or unprofessional conduct or results in a temporary or permanent limitation, restriction, suspension, or revocation, ~~and whether or not the adverse action is accompanied by findings of negligence or unprofessional conduct.~~
- (26) ~~Conviction of any federal or state law or rule, including criminal law, Subject to ss. 111.321, 111.322, and 111.335, Stats., being convicted of an offense the circumstances of~~ which is substantially related relate to the practice of massage therapy or bodywork therapy. For ~~the~~ purposes of this subsection, all of the following shall apply:
- (a) Except as otherwise provided by law, a certified copy of a ~~relevant~~ decision is conclusive evidence of the finding of facts and conclusions of law by a state or federal court or agency charged with making legal determinations relevant to ~~this paragraph is conclusive evidence of its findings of facts and conclusions of law~~ a conviction.

- (b) ~~Under this paragraph, the~~ The board has the burden of proving proof that ~~the act a conviction~~ is substantially related to the practice of massage therapy or bodywork therapy.
- (27) Failing to report to the board any incident in which the licensee has direct knowledge of reasonable cause to suspect that a massage therapist or bodywork therapist has committed any unprofessional, incompetent, or illegal act in violation of state or federal statute, administrative rule, or orders of the board. Reports shall be made within the time necessary to protect clients from further unacceptable risk of harm.
- (28) Failing to display ~~his or her a~~ license ~~in his or her place of business or practice so that it can easily be seen and read by the public as required under s. 460.07 (1), Stats.~~ In the case of a mobile practice, a licensee is required to be able to present ~~his or her a~~ license for public display.
- (29) Failing to maintain liability insurance coverage ~~in an amount not less than of at least~~ \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year, ~~pursuant to~~ as required under s. 460.05 (1) (g), Stats.

**MTBT 5.03 Duty to make reports.**

- (1) A ~~license holder~~ licensee shall submit a report to the board if ~~he or she~~ the licensee has reasonable cause to believe ~~that~~ another ~~license holder~~ licensee has committed a crime relating to prostitution under ss. 944.30 to 944.34, Stats., or has had sexual contact or sexual intercourse with a client. ~~If the report relates to sexual contact or sexual intercourse with a client, the report may not identify the client unless the client has provided written consent for disclosure of this information.~~ For purposes of this subsection, a licensee shall be considered to have reasonable cause upon occurrence of any of the following:
  - ~~(2) For purposes of this section, "reasonable cause" means any of the following:~~
  - (a) ~~Being~~ The licensee is informed by a person that, ~~he or she has~~ while a client of another licensee, that person engaged in an act ~~with another license holder~~ prohibited by ss. 944.30 to 944.34, Stats., with that licensee.
  - (b) ~~Being~~ The licensee is informed by a person that ~~he or she~~, while a client of another ~~license holder~~ licensee, that person engaged in ~~nonmarital~~ sexual contact or sexual intercourse with ~~the other license holder~~ that licensee.
  - (c) ~~Being~~ The licensee is informed by another ~~license holder~~ licensee that ~~he or she has~~ they engaged in ~~nonmarital~~ sexual contact, ~~or~~ sexual intercourse, ~~with a client,~~ or ~~has done~~ an act prohibited by ss. 944.30 to 944.34, Stats., with a client.
- (3) The report shall be made on a complaint form provided by the board. ~~If the report relates to sexual contact or sexual intercourse with a client, the report may not identify the client unless the client has provided written consent for disclosure of this information.~~ The board may use the report as the basis for an investigation under s. 460.14 (1), Stats.

**Note:** Complaint forms are available from the ~~Department~~ department of ~~Safety~~ safety and ~~Professional Services, Division of Legal Services and Compliance, 1400 East Washington Avenue, P.O. Box 7190, Madison, Wisconsin 53707, professional services at (608) 266-2112~~ or from the department's website at: <http://dsps.wi.gov>.

- (4) A complaint as defined in s. SPS 2.03 (2), filed against a license holder pursuant to s. SPS 2.08, based upon the allegation of one or more acts prohibited under ss. 944.30 to 944.34, Stats., constitutes reasonable cause for the board to believe that a license holder has committed a crime and the board shall report the belief to the district attorney for the county in which the crime, in the opinion of the board, occurred.

**MTBT 5.04 Audits.** The board ~~may conduct a random~~ shall audit ~~of any licensee on a biennial basis~~ for compliance with the continuing education requirements ~~set forth in~~ under s. MTBT 7.02 any licensee who is under investigation by the board for alleged misconduct.

on which the petition and proposed rule were submitted to the committee.

3. Following receipt of the petition and proposed rule submitted by the legislative council staff under subd. 2., the joint committee for review of administrative rules shall review the petition and proposed rule and may do any of the following:

a. Approve the agency's petition if the committee determines that the proposed rule would repeal an unauthorized rule.

b. Deny the agency's petition.

c. Request that the agency make changes to the proposed rule and resubmit the petition and proposed rule under subd. 1.

4. The committee shall inform the agency in writing of its decision as to the petition.

(c) If the joint committee for review of administrative rules approves a petition to repeal an unauthorized rule as provided in par. (b) 3. a., the agency shall promulgate the proposed rule by filing a certified copy of the rule with the legislative reference bureau under s. 227.20, together with a copy of the committee's decision.

**SECTION 7.** 227.29 of the statutes is created to read:

**227.29 Agency review of rules and enactments. (1)**

By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by that agency:

(a) Unauthorized rules, as defined in s. 227.26 (4) (a), together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.

(b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.

(c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.

(d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.

(e) Rules that the agency determines are economically burdensome.

(2) The report under sub. (1) shall also include all of the following:

(a) A description of the agency's actions, if any, to address each rule listed in the report. If the agency has not taken any action to address a rule listed in the report, the agency shall include an explanation for not taking action.

(b) A description of the status of each rule listed in the previous year's report not otherwise listed.

(c) If the agency determines that there is no rule as described under sub. (1) (a), (b), (c), (d), or (e), a statement of that determination.

(3) If an agency identifies an unauthorized rule under sub. (1) (a) and is not otherwise in the process of promulgating a rule that repeals the unauthorized rule, the agency shall, within 30 days after the agency submits the report, submit a petition to the legislative council staff under s. 227.26 (4) (b) 1. to repeal the unauthorized rule if the agency has not previously done so.

(4) (a) In this subsection, "enactment" means an act or a portion of an act that is required to be published under s. 35.095 (3) (a).

(b) Each agency shall review enactments to determine whether any part of an enactment does any of the following:

1. Eliminates or restricts the agency's authority to promulgate any rules promulgated or otherwise administered by that agency.

2. Renders any rules promulgated or otherwise administered by that agency obsolete or unnecessary.

3. Renders, for any reason, any rules promulgated or otherwise administered by that agency not in conformity with or superseded by a state statute, including due to statutory numbering or terminology changes in the enactment.

4. Requires or otherwise necessitates rule making by the agency.

(c) If an agency determines that any consequence specified in par. (b) 1. to 4. results from an enactment or part of an enactment, within 6 months after the applicable effective date for the enactment or part of the enactment, the agency shall do one or more of the following, as applicable, to address the consequence identified by the agency and notify the joint committee for review of administrative rules of its action:

1. Submit a statement of the scope of a proposed rule under s. 227.135 (2), unless the enactment requires otherwise or unless the agency submits a notice to the committee explaining why it is unable to submit the statement of scope within that time period and an estimate of when the agency plans to submit the statement of scope.

2. In the case of an affected rule that the agency determines is an unauthorized rule, as defined in s. 227.26 (4) (a), submit a petition to the legislative council staff under s. 227.26 (4) (b) 1.

3. In the case of a consequence specified under par. (b) 3. that can be addressed by the legislative reference bureau using its authority under s. 13.92 (4) (b), submit a request to the legislative reference bureau to use that authority.

**SECTION 8. Initial applicability.**

(1) The treatment of section 227.29 (4) of the statutes first applies to enactments published by the legislative

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Kate Stolarzyk		<b>2) Date When Request Submitted:</b>  8/28/18 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>																			
<b>3) Name of Board, Committee, Council, Sections:</b>  Massage Therapy and Bodywork Therapy Affiliated Credentialing Board																					
<b>4) Meeting Date:</b>  9/4/2018	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  Federation of State Massage Therapy Boards 2018 Annual Meeting																			
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>																			
<b>10) Describe the issue and action that should be addressed:</b>  2018 FSMTB Annual Meeting on October 4-6, 2018 in Salt Lake City, UT Board Discussion																					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"><b>11)</b></td> <td style="width: 80%; text-align: center;"><b>Authorization</b></td> <td style="width: 10%;"></td> </tr> <tr> <td colspan="3" style="border-top: 1px solid black; border-bottom: 1px solid black;">                 Kate Stolarzyk             </td> </tr> <tr> <td style="border-top: 1px solid black; border-bottom: 1px solid black;">                 Signature of person making this request             </td> <td style="border-top: 1px solid black; border-bottom: 1px solid black; text-align: right;">                 Date             </td> <td></td> </tr> <tr> <td style="border-top: 1px solid black; border-bottom: 1px solid black;">                 Supervisor (if required)             </td> <td style="border-top: 1px solid black; border-bottom: 1px solid black; text-align: right;">                 Date             </td> <td></td> </tr> <tr> <td colspan="3" style="border-top: 1px solid black; border-bottom: 1px solid black;">                 Bureau Director signature (indicates approval to add post agenda deadline item to agenda)             </td> </tr> <tr> <td></td> <td style="text-align: right;">Date</td> <td></td> </tr> </table>				<b>11)</b>	<b>Authorization</b>		Kate Stolarzyk			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	
<b>11)</b>	<b>Authorization</b>																				
Kate Stolarzyk																					
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																				

**Thursday, October 4, 2018**

5:00 – 6:00 p.m.

**New Delegate Orientation**

*FSMTB is pleased to have all first-time delegates join us and has dedicated a special session to help them get acclimated to annual meeting procedures and introduced to the FSMTB leadership and staff.*

5:45 p.m.

**Registration Opens**

*Registered attendees are welcome to pick up their name badges and meeting materials. Onsite late registration is open on a space available basis; members receive priority.*

6:00 – 7:30 p.m.

**Welcome Reception**

*Gather in a relaxed setting to greet colleagues and meet new acquaintances as we prepare to discuss matters of importance to the massage and bodywork regulatory community.*

**Friday, October 5, 2018**

7:15 – 8:15 a.m.

**BREAKFAST**

8:30 – 8:45 a.m.

**Opening Session**

*Presiding: Ed Bolden, 2017-2018 FSMTB President, and member of the Tennessee Massage Licensure Board*

Call to Order / Roll Call / Welcome

Welcome from the Utah Board of Massage Therapy

Approval of Agenda

8:45 – 9:15 a.m.

**President's Report**

*FSMTB President Ed Bolden will present an overview of FSMTB's activities during the past year under his leadership. President Bolden will review projects in progress by FSMTB volunteer committees and supported by staff to fulfill the Federation's mission and meet the needs of state regulatory boards.*

9:15 – 10:30 a.m.

**Presentation of Resolutions**

*The delegate assembly of member boards provides direction and policy for the Federation. Member board resolution sponsors present proposed resolutions and rationale for adoption; the policy committee provides input and recommendations; members discuss merits for each resolution.*

10:30 – 11:00 a.m.	<b>NETWORKING BREAK</b>
11:00 – 11:45 a.m.	<b>Presentation of Slate of Candidates</b> <i>The Nominating Committee will present the slate of candidates seeking election to the FSMTB Board of Directors. The Delegate Assembly will also hear from candidates slated for election.</i>
11:45 a.m. – Noon	<b>Treasurer’s Report</b> <i>FSMTB Treasurer David Cox, Chair of the Maryland State Board of Massage Therapy Examiners, will report on the financial status of FSMTB.</i>
Noon – 1:00 p.m.	<b>NETWORKING LUNCH</b> <i>Join colleagues as we celebrate the many volunteers who contribute to the success of FSMTB.</i>
1:00 – 3:00 p.m.	<b>Member Board Reports</b> <i>The delegate from each FSMTB Member Board will present a summary of key regulatory initiatives and concerns in their state, for discussion of shared issues.</i>
3:00 – 3:30 p.m.	<b>NETWORKING BREAK</b>
3:30 – 4:00 p.m.	<b>Member Services Reports</b> <i>Representatives from working committees and task forces will report to the membership regarding progress of initiatives, conclusions and recommendations for consideration by the membership.</i>
4:00 – 5:00 p.m.	<b>Executive Session — FSMTB Members Only</b> <i>This session is reserved for FSMTB members only to discuss confidential and legal matters pertaining to the governance of the Federation and security of the national licensing examination.</i>
5:00 p.m.	<b>Recess</b>
6:00 p.m.	<b>Hosted Regulatory Networking Dinners</b> <i>Optional networking opportunities hosted by FSMTB at local Salt Lake City restaurants. Reserved for FSMTB members only.</i>

**Saturday, October 6, 2018**

7:15 – 8:15 a.m.	<b>BREAKFAST</b>
8:30 – 8:35 a.m.	<b>Reconvene</b> Call to Order / Roll Call / Welcome
8:30 – 9:30 a.m.	<b>Human Trafficking and Massage Therapy</b> <i>According to research from Polaris, there are more than 9,000 illicit massage businesses currently open for business in America, and they can be found in every state. This session will consider the problem with a focus on potential areas where FSMTB and our members can contribute to solutions through sensible regulation and initiatives.</i>

9:30 – 10:00 a.m.	<p><b>Voting on Resolutions Put Forth by Members</b></p> <p><i>The FSMTB Delegate Assembly will vote on presented resolutions in accordance with the FSMTB Bylaws.</i></p>
10:00 – 10:30 a.m.	<p><b>Elections</b></p> <p><i>The FSMTB Delegate Assembly will vote to elect new members to the Board of Directors and to the Nominating Committee. During vote counting by member board representatives, the location of the 2020 Annual Meeting will be announced.</i></p>
10:30 – 11:00 a.m.	<p><b>NETWORKING BREAK</b></p>
11:00 a.m. – Noon	<p><b>The State of Massage Education</b></p> <p><i>This session will provide an assessment of the impact of the Massage Education Policy launched in July of 2017. Discussion will include examples of how FSMTB is working together with state boards to address licensing fraud that impacts public protection, education standards, how state boards address education verification for licensing applications, and future developments.</i></p>
Noon – 1:00 p.m.	<p><b>NETWORKING LUNCH – Volunteer Appreciation continued</b></p>
1:00 – 2:00 p.m.	<p><b>The Future of Regulation</b></p> <p><i>This session will examine the current regulatory climate as well as look at information that will shape a future that incorporates sensible and smart regulation.</i></p>
2:00 – 2:45 p.m.	<p><b>FSMTB Strategic Plan</b></p> <p><i>The membership will participate in a facilitated discussion of 2019-2020 strategic objectives and set the foundation for opportunities where FSMTB can prepare to provide meaningful services and support for the massage regulatory community into the third decade of the century.</i></p>
2:45 – 3:00 p.m.	<p><b>Closing Remarks from President Bolden</b></p> <p>Adjournment</p>
3:15 – 4:30 p.m.	<p><b>Roundtable Discussions (optional)</b></p> <p><i>Join colleagues for a closer examination and discussion of a variety of topics of interest and relevant to the massage regulatory community.</i></p>
5:00 p.m.	<p><b>Board of Directors Meeting (optional)</b></p> <ul style="list-style-type: none"> <li>Call to Order</li> <li>Welcome New Board Members</li> <li>Approval of Agenda</li> <li>Conflicts of Interest</li> <li>Officer Elections</li> <li>Board Meeting Schedule</li> <li>Adjournment</li> </ul>

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

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Darlene Campo		<b>2) Date When Request Submitted:</b>  7/2018 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b>  Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
<b>4) Meeting Date:</b>  9/4/2018	<b>5) Attachments:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  Federation of State Massage Therapy Boards Massage Therapy Licensing Database – APPEARANCE – Laura Simmons, FSMTB Director of Operations	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b>  Yes. Laura Simmons, FSMTB Director of Operations	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  The FSMTB sent a letter to the Board on June 18 seeking the Board’s collaboration on a Memorandum of Understanding for participation in its Massage Therapy Licensing Database (MTLD).  The Department generally defers to the Legislature for authority to participate in national professional licensing and discipline databases, so state statute would have to be amended if the Board would like the Department to participate in MTLTLD.			
<b>11) Authorization</b>			
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	