



**TELECONFERENCE/VIRTUAL
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED
CREDENTIALING BOARD**

**Virtual, 4822 Madison Yards Way, Madison
Contact: Valerie Payne (608) 266-2112
September 1, 2020**

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 2, 2020 (4-6)**
- C. Conflicts of Interest**
- D. Introductions, Announcements and Recognition**
 - 1) Charisma Townsend – Massage Therapist & Body Worker Member (Replaces: Krizenesky) – 7/1/2023
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Board Members – Term Expiration Dates
 - 3) Wis. Stat. s 15.085 (3)(b) – Biannual Meeting with the Medical Examining Board
- F. Legislative and Policy Matters – Discussion and Consideration**
- G. Administrative Rule Matters – Discussion and Consideration (7)**
 - 1) Preliminary Rule Draft: MTBT 2, Relating to Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses **(8-11)**
 - 2) Administrative Rules Reporting under 2017 Wisconsin Act 108 **(12-14)**
 - a. Review of 2019 Report
 - b. Proposals for 2021 Report
 - 3) Pending or Possible Rulemaking Projects
- H. COVID-19 – Discussion and Consideration**
- I. Federation of State Massage Therapy Boards (FSMTB) Matters – Discussion and Consideration**

- J. Discussion and Consideration of Items Added After Preparation of Agenda:
- 1) Introductions, Announcements and Recognition
 - 2) Nominations, Elections, and Appointments
 - 3) Administrative Matters
 - 4) Election of Officers
 - 5) Appointment of Liaisons and Alternates
 - 6) Delegation of Authorities
 - 7) Education and Examination Matters
 - 8) Credentialing Matters
 - 9) Practice Matters
 - 10) Legislative and Policy Matters
 - 11) Administrative Rule Matters
 - 12) Liaison Reports
 - 13) Board Liaison Training and Appointment of Mentors
 - 14) Informational Items
 - 15) Division of Legal Services and Compliance (DLSC) Matters
 - 16) Presentations of Petitions for Summary Suspension
 - 17) Petitions for Designation of Hearing Examiner
 - 18) Presentation of Stipulations, Final Decisions and Orders
 - 19) Presentation of Proposed Final Decisions and Orders
 - 20) Presentation of Interim Orders
 - 21) Petitions for Re-Hearing
 - 22) Petitions for Assessments
 - 23) Petitions to Vacate Orders
 - 24) Requests for Disciplinary Proceeding Presentations
 - 25) Motions
 - 26) Petitions
 - 27) Appearances from Requests Received or Renewed
 - 28) Speaking Engagements, Travel, or Public Relation Requests, and Reports

K. Public Comments

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.).

L. Deliberation on DLSC Matters

- 1) **Stipulations, Final Decisions and Orders**
 - a. 18 MAB 003 – Daniel J. Sage, L.M.T. **(15-21)**
 - b. 18 MAB 016 – Amber R. Downing, L.M.T. **(22-27)**
 - c. 19 MAB 001 – Katie A Irving, L.M.T. **(28-33)**
- 2) **Proposed Stipulations and Interim Orders**
 - a. 19 MAB 018, 19 MAB 019, 19 MAB 024 – Jarrod J. Huffman, L.M.T. **(34-38)**
- 3) **Case Closings**
 - a. 17 MAB 016 – D.H., R.G. **(39-41)**
 - b. 18 MAB 006 – Unknown **(42-47)**
 - c. 20 MAB 006 – D.J.P. **(48-54)**

M. Deliberation on Proposed Final Decision and Order

- 1) Hui Zhan, Respondent (DHA Case Number SPS-19-0061/DLSC Case Number 17 MAB 017) **(55-63)**

N. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

NEXT DATE: DECEMBER 1, 2020

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, or the Meeting Staff at 608-266-5439.

**TELECONFERENCE/VIRTUAL
MASSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD
JUNE 2, 2020**

PRESENT: Robert Coleman, Jr., Jaime Ehmer, Carla Hedtke, Jeff Miller, Gregory Quandt, Ramona Trudeau

EXCUSED: Charisma Townsend

STAFF: Valerie Payne, Executive Director; Yolanda McGowan, Board Legal Counsel; Dale Kleven, Administrative Rules Coordinator; Megan Glaeser, Bureau Assistant; and other Department Staff

CALL TO ORDER

Robert Coleman, Jr., Chairperson, called the meeting to order at 9:08 a.m. A quorum was confirmed with six (6) members present.

ADOPTION OF AGENDA

Amendments to the Agenda

- Under Item I. COVID-19 – Discussion and Consideration ADD:
 - Public Agenda Item Request – COVID19 Relief for Licensed Massage Therapists

MOTION: Carla Hedtke moved, seconded by Gregory Quandt, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Carla Hedtke moved, seconded by Jaime Ehmer, to approve the Minutes of March 17, 2020 as published. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Scope Statement: MTBT2, Relating to Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses

MOTION: Jeff Miller moved, seconded by Carla Hedtke, to approve the Scope Statement revising MTBT 2, relating to reciprocal credentials for service members, former service members, and their spouses, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. Motion carried unanimously.

MOTION: Gregory Quandt moved, seconded by Ramona Trudeau, that if the Board is directed under s. 227.136 (1), Stats., to hold a preliminary public hearing and comment period on the Scope Statement revising MTBT 2, relating to reciprocal credentials for service members, former service members, and their spouses, the Chairperson is authorized to approve the notice required under s. 227.136 (2), Stats. Motion carried unanimously.

CLOSED SESSION

MOTION: Jaime Ehmer moved, seconded by Jeff Miller, 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.). Robert Coleman, Jr., Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Robert Coleman-yes; Jaime Ehmer-yes; Jeff Miller-yes; Gregory Quandt-yes; and Ramona Trudeau-yes. Motion carried unanimously.

(Carla Hedtke was disconnected from the meeting for this vote.)

The Board convened into Closed Session at 10:40 a.m.

DELIBERATION ON DLSC MATTERS

Stipulations, Final Decisions and Orders

18 MAB 012 – Kris A. Brownell, L.M.T.

MOTION: Carla Hedtke moved, seconded by Jeff Miller, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Kris A. Brownell, L.M.T., DLSC Case Number 18 MAB 012. Motion carried unanimously.

Administrative Warnings

17 MAB 021 – E.G.M.

MOTION: Gregory Quandt moved, seconded by Ramona Trudeau, to issue an Administrative Warning in the matter of E.G.M., DLSC Case Number 17 MAB 021. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Jaime Ehmer moved, seconded by Carla Hedtke, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 10:57 a.m.

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

MOTION: Gregory Quandt moved, seconded by Jaime Ehmer, 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).

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

MOTION: Jeff Miller moved, seconded by Gregory Quandt, 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: Ramona Trudeau moved, seconded by Jaime Ehmer, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:04 a.m.

DRAFT

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dale Kleven Administrative Rules Coordinator		2) Date When Request Submitted: 8/20/20 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 9/1/20	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Preliminary Rule Draft: MTBT 2, Relating to Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses 2. Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108 a. Review of 2019 Report b. Proposals for 2021 Report 3. Pending and Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both		8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request <i>Dale Kleven</i>		Date <i>August 20, 2020</i>	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING
BOARD

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 amend MTBT 2.03 (1) (intro.) and create MTBT 2.035, relating to reciprocal credentials for service members, former service members, and their spouses.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 440.09, Stats.

Statutory authority:

Sections 15.085 (5) (b) and 440.09 (5), 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 440.09 (5), Stats., provides that “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

Related statute or rule:

Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

Plain language analysis:

The proposed rule creates a provision to implement s. 440.09, Stats., as created by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

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

None.

Comparison with rules in adjacent states:

Illinois:

The Illinois Statutes provide for the expedited licensure of service members and their spouses (20 ILCS 5/5-715). “Service member” includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

Iowa:

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

Michigan:

The Michigan Statutes provide for temporary licensure of the spouse of an active duty service member (MCL 339.213). A temporary license is valid for 6 months and may be renewed for one additional 6-month term if it is determined the licensee continues to meet the requirements for temporary licensure and needs additional time to fulfill the requirements for initial licensure.

Minnesota:

The Minnesota Statutes provide for temporary licensure of an individual who is an active duty military member, the spouse of an active duty military member, or a veteran who has left service in the 2 years preceding the date of license application (2019 Minnesota Statutes, Section 197.4552). A temporary license allows a qualified individual to perform regulated professional services for a limited length of time as determined by the applicable licensing board. During the temporary license period, the individual must complete the full application procedure as required by applicable law.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of s. 440.09, Stats., as created by 2019 Wisconsin Act 143, 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 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 rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator, Dan Hereth, may be contacted 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.

TEXT OF RULE

SECTION 1. MTBT 2.03 (1) (intro.) is amended to read:

MTBT 2.03 (1) (intro.) ~~An~~ Except as provided under s. MTBT 2.035, an 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:

SECTION 2. MTBT 2.035 is created to read:

MTBT 2.035 Reciprocal credentials for service members, former service members, and their spouses. A reciprocal license to practice massage therapy or bodywork therapy shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

(c) For purposes of par. (b), the period shall be the period beginning on March 12, 2020, and ending on the 60th day after the end of the period covered by the public health emergency declared on March 12, 2020, by executive order 72.

(d) A renewal that occurs subsequent to the period described in par. (c) is not subject to the late renewal fee under sub. (3) (a) if the application to renew the credential is received before the next applicable renewal date. Notwithstanding the applicable provisions in chs. 440 to 480, the applicable credentialing board may, for that next applicable renewal date, provide an exemption from or reduction of continuing education or other conditions for renewal.

History: 1991 a. 39 ss. 3305, 3313; 1991 a. 78, 160, 167, 269, 278, 315; 1993 a. 3, 16, 102, 105, 107, 443, 463, 465; 1993 a. 490 ss. 228 to 230, 274, 275; 1995 a. 27, 233, 321, 322, 461; 1997 a. 27, 75, 81, 96, 156, 191, 237, 261, 300; 1999 a. 9, 32; 2001 a. 16, 70, 74, 80, 89; 2003 a. 150, 270, 285, 327; 2005 a. 25, 31, 242, 292, 297, 407; 2007 a. 20, 174, 189; 2009 a. 28, 29, 106, 130, 174, 282, 355, 360; 2011 a. 160, 190, 258; 2013 a. 20, 240, 244, 358; 2015 a. 3, 16, 55, 116; 2015 a. 195 s. 83; 2015 a. 258; 2017 a. 82, 113, 329, 364; 2019 a. 49 s. 1; 2019 a. 185.

440.09 Reciprocal credentials for service members, former service members, and their spouses. (1) In this section:

(a) “Former service member” means a person who was discharged from the U.S. armed forces under conditions other than dishonorable within 4 years of the date on which the service member or the spouse of the service member applies for a reciprocal credential under this section.

(b) “Service member” means a member of the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

(c) “Spouse” includes the spouse of a person who died while in service in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces.

(2) The department and each credentialing board shall grant a reciprocal credential to an individual who the department or credentialing board determines meets all of the following requirements:

(a) The individual applies for a reciprocal credential under this section on a form prescribed by the department or credentialing board.

(b) The individual is a service member, a former service member, or the spouse of a service member or former service member and resides in this state.

(c) The individual holds a license, certification, registration, or permit that was granted by a governmental authority in a jurisdiction outside this state that qualifies the individual to perform the acts authorized under the appropriate credential granted by the department or credentialing board.

(d) The individual pays the fee specified under s. 440.05 (2).

(f) The individual is in good standing with the governmental authorities in every jurisdiction outside this state that have granted the individual a license, certification, registration, or permit that qualifies the individual to perform acts authorized under the appropriate credential granted by the department or credentialing board.

(2m) If an individual is unable to provide documentation that the individual is a service member, former service member, or the spouse of a service member or former service member, the individual may submit an affidavit to the department or credentialing board, as appropriate, stating that the individual is a service member, former service member, or the spouse of a service member or former service member.

(3) (a) A reciprocal credential granted under this section expires on the applicable renewal date specified in s. 440.08 (2) (a), except that if the first renewal date specified in s. 440.08 (2) (a) after the date on which the credential is granted is within 180 days of the date on which the credential is granted, the credential expires on the 2nd renewal date specified in s. 440.08 (2) (a) after the date on which the credential is granted.

(b) The department or credentialing board, as appropriate, shall grant a renewed reciprocal credential to an applicant who pays the renewal fee specified under s. 440.05 (2) and satisfies the requirements that apply for renewing that credential.

(4) The department or credentialing board, as appropriate, shall expedite the issuance of a reciprocal credential granted under this section.

(5) The department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.

History: 2011 a. 210; 2019 a. 143.

440.11 Change of name or address. (1) An applicant for or recipient of a credential who changes his or her name or moves from the last address provided to the department shall notify the department of his or her new name or address within 30 days of the change in writing or in accordance with other notification procedures approved by the department.

(2) The department or any examining board, affiliated credentialing board or board in the department may serve any process, notice or demand on the holder of any credential by mailing it to the last-known address of the holder as indicated in the records of the department, examining board, affiliated credentialing board or board.

History: 1987 a. 27; 1991 a. 39; 1993 a. 107; 1997 a. 27; 2017 a. 329.

440.12 Credential denial, nonrenewal and revocation based on tax or unemployment insurance contribution delinquency. Notwithstanding any other provision of chs. 440 to 480 relating to issuance or renewal of a credential, the department shall deny an application for an initial credential or credential renewal or revoke a credential if any of the following applies:

(1) The department of revenue certifies under s. 73.0301 that the applicant or credential holder is liable for delinquent taxes.

(2) The department of workforce development certifies under s. 108.227 that the applicant or credential holder is liable for delinquent unemployment insurance contributions.

History: 1997 a. 237; 2013 a. 36.

Cross-reference: See also ch. SPS 9, Wis. adm. code.

440.121 Credential denial, nonrenewal, and revocation based on incompetency. Notwithstanding any other provision of chs. 440 to 480 relating to issuance or renewal of a credential, the department shall deny an application for an initial credential or credential renewal or revoke a credential issued to an individual for whom the department receives a record of a declaration under s. 54.25 (2) (c) 1. d. stating that the individual is incompetent to apply for a credential under chs. 440 to 480.

History: 2005 a. 387.

440.13 Delinquency in support payments; failure to comply with subpoena or warrant. (1) In this section:

(b) “Memorandum of understanding” means a memorandum of understanding entered into by the department of safety and professional services and the department of children and families under s. 49.857.

(c) “Support” has the meaning given in s. 49.857 (1) (g).

(2) Notwithstanding any other provision of chs. 440 to 480 relating to issuance of an initial credential or credential renewal, as provided in the memorandum of understanding:

(a) With respect to a credential granted by the department, the department shall restrict, limit, or suspend a credential or deny an application for an initial credential if the credential holder or applicant is delinquent in paying support or fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to support or paternity proceedings.

(b) With respect to credential renewal, the department shall deny an application for renewal if the applicant is delinquent in paying support or fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and



March 19, 2019

Senator Stephen Nass, Senate Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 10 South, State Capitol
Madison, WI 53702

Representative Joan Ballweg, Assembly Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 210 North, State Capitol
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Ballweg:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

I. Unauthorized rules, as defined in s. 227.26 (4) (a), Stats.:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are unauthorized.

II. Rules for which the authority to promulgate has been restricted:

Rule	Description of the legislation that restricted the authority	Action taken to address or reason for not taking an action
MTBT 5.04	The Board's authority to request verification of compliance with continuing education requirements has been restricted by 2017 Act 59, s. 1929.	Preliminary rules have been drafted and are ready to be reviewed by the Legislative Council Rules Clearinghouse

III. Rules that are obsolete or that have been rendered unnecessary:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are obsolete or have been rendered unnecessary.

IV. 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:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules 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.

V. Rules that are economically burdensome:

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are economically burdensome.

Thank you.

Sincerely,

Elizabeth C. Krizenesky

On Behalf of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

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