



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

**Virtual, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
August 19, 2024**

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 July 15, 2024 (4-7)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns
- D. Introductions, Announcements and Recognition
- E. 9:00 A.M. Public Hearing: Clearinghouse Rule 24-054 on MTBT 6, Relating to Temporary Licenses (8-19)**
 - 1) Review Public Hearing Comments and Respond to Clearinghouse Report (16-19)
- F. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Board Members – Term Expiration Dates
 - a. Ehmer, Jaime L. – 7/1/2027
 - b. Kue, Ab O. – 7/1/2027
 - c. McNeil, Lisa L. – 7/1/2027
 - d. Novak, Laura A. – 7/1/2027
 - e. Townsend-Davila, Charisma J. – 7/1/2027
 - f. Trudeau, Ramona J. – 7/1/2027
 - 3) Wis. Stat. s. 15.085 (3)(b) – Biannual Meeting with the Medical Examining Board
- G. Legislative and Policy Matters – Discussion and Consideration
- H. Administrative Rule Matters – Discussion and Consideration (20-21)**
 - 1) Pending or Possible Rulemaking Projects (21)
- I. Department of Veterans Affairs National Standard of Practice (22-27)**

J. Federation of State Massage Therapy Boards (FSMTB) Matters – Discussion and Consideration

K. 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) Public Health Emergencies
- 11) Legislative and Policy Matters
- 12) Administrative Rule Matters
- 13) Liaison Reports
- 14) Board Liaison Training and Appointment of Mentors
- 15) Informational Items
- 16) Division of Legal Services and Compliance (DLSC) Matters
- 17) Presentations of Petitions for Summary Suspension
- 18) Petitions for Designation of Hearing Examiner
- 19) Presentation of Stipulations, Final Decisions and Orders
- 20) Presentation of Proposed Final Decisions and Orders
- 21) Presentation of Interim Orders
- 22) Petitions for Re-Hearing
- 23) Petitions for Assessments
- 24) Petitions to Vacate Orders
- 25) Requests for Disciplinary Proceeding Presentations
- 26) Motions
- 27) Petitions
- 28) Appearances from Requests Received or Renewed
- 29) Speaking Engagements, Travel, or Public Relation Requests, and Reports

L. 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.).

M. Credentialing Matters

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

O. 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

P. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

NEXT MEETING: NOVEMBER 18, 2024

Board Member Training: November 15, 2024

 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 virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at <https://dsps.wi.gov>. 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. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, or reach the Meeting Staff by calling 608-267-7213.

**VIRTUAL/TELECONFERENCE
MESSAGE THERAPY AND BODYWORK THERAPY
AFFILIATED CREDENTIALING BOARD
JULY 15, 2024**

PRESENT: Jaime Ehmer, Ab Kue, Lisa McNeil (*excused at 12:00 p.m.*), Laura Novak, Charisma Townsend-Davila, Ramona Trudeau

STAFF: Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Tracy Drinkwater, Board Administration Specialist.; and other Department Staff

CALL TO ORDER

Jaime Ehmer, Chairperson, called the meeting to order at 9:30 a.m. A quorum was confirmed with six (6) members present.

ADOPTION OF AGENDA

MOTION: Charisma Townsend-Davila moved, seconded by Ab Kue, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF MAY 20, 2024

MOTION: Ramona Trudeau moved, seconded by Charisma Townsend-Davila, to approve the Minutes of May 20, 2024, as published. Motion carried unanimously.

CLOSED SESSION

MOTION: Ab Kue moved, seconded by Ramona Trudeau, 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.). Jaime Ehmer, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Jaime Ehmer-yes; Ab Kue-yes; Lisa McNeil-yes; Laura Novak-yes; Charisma Townsend-Davila-yes; and Ramona Trudeau-yes. Motion carried unanimously.

The Board convened into Closed Session at 9:34 a.m.

**PRESENTATION AND DELIBERATION OF PETITIONS FOR SUMMARY SUSPENSION
AND DESIGNATION OF HEARING OFFICIAL**

9:30 A.M. APPEARANCE: Carley Peich Kiesling, DLSC Attorney; Joseph Seifert, Attorney for Respondent; D.M.L., Respondent: DLSC Case Numbers 23 MAB 011, 23 MAB 018, and 23 MAB 023 – D.M.L.

23 MAB 011, 23 MAB 018, and 23 MAB 023 – D.M.L.

- MOTION:** Lisa McNeil moved, seconded by Ab Kue, to acknowledge that oral arguments in the Summary Suspension proceedings for DLSC Case Numbers 23 MAB 011, 23 MAB 018, and 23 MAB 023 were presented to the Board by Carley Peich Kiesling, DLSC Attorney, and Joseph Seifert, Respondent's Attorney, D.M.L., Respondent. Motion carried unanimously.
- MOTION:** Charisma Townsend-Davila moved, seconded by Ramona Trudeau, to find that notice was given to D.M.L., DLSC Case Numbers 23 MAB 011, 23 MAB 018, and 23 MAB 023, of the Summary Suspension proceedings pursuant to Wis. Admin. Code SPS § 6.05. Motion carried unanimously.
- MOTION:** Lisa McNeil moved, seconded by Ab Kue, to confirm a finding of probable cause to believe that D.M.L., Respondent, has engaged in or is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of the Respondent's license and to issue the Order for Summary Suspension in the matter of disciplinary proceedings against Respondent, DLSC Case Numbers 23 MAB 011, 23 MAB 018, and 23 MAB 023, pursuant to Wis. Admin. Code § SPS 6.06. Motion carried unanimously.
- MOTION:** Ramona Trudeau moved, seconded by Charisma Townsend-Davila, to designate a Hearing Official for any hearing to show cause in the matter of the Summary Suspension of D.M.L., Respondent, DLSC Case Numbers 23 MAB 011, 23 MAB 018, and 23 MAB 023, pursuant to Wis. Admin. Code §§ SPS 6.09 and 6.11. Motion carried unanimously.
- MOTION:** Charisma Townsend-Davila moved, seconded by Ab Kue, to authorize the Board Vice Chair as having the authority to act on behalf of the Board to review, approve, and sign the Summary Suspension Order and Order Designating Hearing Official in the matter of the Summary Suspension of D.M.L., Respondent, DLSC Case Numbers 23 MAB 011, 23 MAB 018, and 23 MAB 023. Motion carried unanimously.

(Jaime Ehmer recused herself and left the room for deliberation and voting in the matter concerning D.M.L., DLSC Case Number 23 MAB 011, 23 MAB 018, and 23 MAB 023.)

CREENTIALING MATTERS

Application Reviews

Z.H. – Massage or Bodywork Therapist

MOTION: Lisa McNeil moved, seconded by Ramona Trudeau, to issue an intent to deny, and a three-option letter, the Massage or Bodywork Therapist application of Z.H..
Reason for Denial: MTBT 2.01(3g)(7); the evidence presented does not establish that the Texas examination is substantially equivalent to the other exams in MTBT 2.01(3g). The exam does not have the same subject emphases or required topics for an equivalent examination and allows for more time to take the examination. Motion carried unanimously.

Lisa McNeil excused at 12:00 p.m.

K.R.R. – Massage or Bodywork Therapist

MOTION: Ramona Trudeau moved, seconded by Jaime Ehmer, to issue an intent to deny the Massage or Bodywork Therapist application of K.R.R., and offer them a limited license with the following conditions: Terms: shall work as a direct or W-2 employee (not as an independent contractor) in an employment setting with a minimum of six (6) other employees, shall show this order to their employer prior to beginning employment, and shall arrange for the submission of quarterly work reports from the employer or direct supervisor to the department and shall have no violations of law or terms of probation and shall report any law enforcement contacts to the department within 14 days. **Reason for Denial:** Wis. Stat. s. 460.14(2)(b) and (j), and Wis. Admin. Code s. MTBT 5.02(26) Wis. Stat. s. 460.14(2)(a) and (j), and Wis. Admin. Code s. MTBT 5.02(3). Motion carried unanimously.

DELIBERATION ON DLSC MATTERS

Proposed Stipulations, Final Decisions and Orders

21 MAB 010 – Gregory W. Heisel

MOTION: Jaime Ehmer moved, seconded by Ramona Trudeau, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Gregory W. Heisel, DLSC Case Number 21 MAB 010. Motion carried unanimously.

DELIBERATION ON PROPOSED FINAL DECISION AND ORDERS

Xi Wang Fillion – DHA Case Number SPS-24-0002/ DLSC Case Number 22 MAB 020

MOTION: Ramona Trudeau moved, seconded by Ab Kue, to adopt the Findings of Fact, Conclusions of Law, and Proposed Decision and Order, in the matter of disciplinary proceedings against Xi Wang Fillion, Respondent – DHA Case Number SPS-24-0002 /DLSC Case Number 22 MAB 020. Motion carried unanimously.

(Lisa McNeil recused herself and left the room for deliberation and voting in the matter concerning Xi Wang Fillion, Respondent – DHA case number SPS-24-0002/DLSC Case Number 22 MAB 020.

RECONVENE TO OPEN SESSION

MOTION: Ramona Trudeau moved, seconded by Jaime Ehmer, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:28 p.m.

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

MOTION: Jaime Ehmer moved, seconded by Charisma Townsend-Davila, 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: Jaime Ehmer moved, seconded by Charisma Townsend-Davila, 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: Ab Kue moved, seconded by Ramona Trudeau, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:31 p.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 8/7/24 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 08/19/24	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:00 A.M. Public Hearing for Clearinghouse Rule 24-054 on MTBT 6, Relating to Temporary Licenses 1. Review Public Hearing Comments and Respond to Clearinghouse Report	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Board will hold a public hearing on this rule as required by the rulemaking process.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING
BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MESSAGE THERAPY AND 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 6.02 (1) (intro.) and (d), and (3) (a) and (b), and to create MTBT 6.02 (6), relating to temporary licenses.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 460.08, Stats.

Statutory authority: Sections 15.085 (5) (b), 460.04 (2) (f), 460.08, Stats.

Explanation of agency authority:

s. 15.085 (5) (b), stats. states that “[each affiliated credentialing board] shall promulgate rules for its own guidance and for the guidance of the trader or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

s. 460.04 (2) (f), stats. states that “[the affiliated credentialing board shall promulgate rules that establish] requirements to be satisfied by a person seeking a temporary license under s. 460.08. The rules promulgated under this subsection shall require the person to be a graduate of a massage therapy or bodywork therapy school or program and may require the holder of a temporary license to make disclosures to clients and to practice under the supervision of a massage therapist or bodywork therapist licensed under this chapter.”

s. 460.08, stats. states that “The affiliated credentialing board may grant a temporary license for a period not to exceed 6 months to an applicant who satisfies the requirements established in the rules under s. 460.04 (2) (f). A temporary license may not be renewed.”

Related statute or rule: None.

Plain language analysis:

The proposed rule revises chapter MTBT 6 to align with current practice in the profession in the area of temporary licensure. This was achieved through amending temporary licensure requirements relating to the examination under s. 460.06, Stats., to cover the typical pathway of an applicant more accurately as they move from temporary to permanent licensure. These changes include amendments to MTBT 6.02 (1) and (3) regarding the exam and the ability of a licensee to receive more than one temporary license. Other amendments include creating a provision under MTBT 6.02 (6) that allows the board to review and take action on any temporary licensee who fails the required examination under s. 460.06, Stats if necessary.

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 is responsible for the licensure and regulation of the practice of massage therapy in Illinois, with input from the Illinois Massage Licensing Board. The Illinois Department is also responsible for the promulgation of rules to implement certain sections of the Illinois Massage Therapy Practice Act. This Act contains requirements for applications, licensure, and discipline for massage therapists [225 Illinois Compiled Statutes ch. 57]. Illinois does not issue temporary licenses to practice massage therapy.

Iowa:

The Iowa Board of Massage Therapy is responsible for the licensure and regulation of the practice of massage therapy in Iowa. Chapter 152C of the Iowa Code includes statutory requirements for licensure, composition and powers of the Iowa Board, and discipline for massage therapists [Iowa Code ch. 152C]. The Iowa Administrative Code details rules relating to the practice of massage therapy, including requirements for temporary licensure. In Iowa, an individual who is licensed to practice massage therapy in another jurisdiction, but is unable to meet the requirements of licensure by endorsement is eligible for a temporary license. Such a temporary license is valid for up to one year and is not renewable. Any application for a temporary license must include a plan for meeting the requirements for regular licensure within one year. [645 Iowa Administrative Code ch. 131 s. 131.6].

Michigan:

The Michigan Board of Massage Therapy is responsible for the licensure and regulation of massage therapy practice in Michigan. Act 368 Article 15 Part 179A of the Michigan Compiled Laws includes the regulations for massage therapy in Michigan, among several other occupations. Some of the requirements in this part include those for licensure, renewal, and duties of the Michigan Board. [Michigan Compiled Laws ss. 333.17951-333.1769]. Michigan does not issue temporary licenses to practice massage therapy.

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 [Minnesota Statutes Chapter 146A].

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of MTBT 6 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.

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, Jennifer Garrett, may be contacted by calling (608) 266-2112.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on August 19, 2024, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. MTBT 6.02 (1) (intro.) and (d), and (3) (a) and (b) are amended to read:

MTBT 6.02 (1) (intro.) The board may issue a temporary license to an applicant to practice massage therapy and bodywork therapy who meets the criteria under s. 460.05, Stats., other than passing the examination under s. 460.05 (f), Stats., and who has completed all of the following:

(1) (d) Has ~~not previously failed~~ taken an examination required under s. 460.06, Stats.

(3) (a) A temporary license expires 6 months after the date of issuance or when the department provides notice that the temporary licensee has ~~failed or~~ passed the examination required by s. 460.06, Stats., whichever is first.

(3) (b) No person shall be issued more than one temporary license ~~in any 365-day period~~ without presenting evidence satisfactory to the board of a substantial change in circumstances since the expiration of the initial temporary license. The determination of whether circumstances have substantially changed shall be entirely within the discretion of the board.

SECTION 2. MTBT 6.02 (6) is created to read:

MTBT 6.02 (6) Temporary licensees who fail to pass the examination under s. 460.06, Stats., may be subject to review and revocation of the credential as determined by the board.

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)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 07/05/24
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) MTBT 6	
4. Subject Temporary Licenses	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165 (1) (hg)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The proposed rule revises chapter MTBT 6 to align with current practice in the profession in the area of temporary licensure. This was achieved through amending temporary licensure requirements relating to the examination under s. 460.06, Stats., to cover the typical pathway of an applicant more accurately as they move from temporary to permanent licensure. These changes include amendments to MTBT 6.02 (1) and (3) regarding the exam and the ability of a licensee to receive more than one temporary license. Other amendments include creating a provision under MTBT 6.02 (6) that allows the board to review and take action on any temporary licensee who fails the required examination under s. 460.06, Stats if necessary.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule was posted on the Department's website for 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.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
14. 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 Department of Safety and Professional Services estimates a total of 5,625.00 in one-time costs for implementing this rule. The estimated funds support the equivalent of a 0.1 limited term employee and their associated overhead for rulemaking activities and form and website updates. The one-time costs cannot be absorbed in the currently appropriated agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing this rule is clear requirements for temporary licensure for massage therapy and bodywork therapy practitioners to follow while waiting for permanent licensure. The alternative to implementing the rule is not	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

only a lack of clarity on what is required for a temporary license, but also a potential for the temporary license to be used as a substitute for permanent licensure due to the way the rule is written.

16. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule are that massage therapy and bodywork therapy students can utilize the temporary license option while still staying on track for getting a permanent license in a way that can be accurately monitored by the Board.

17. Compare With Approaches Being Used by Federal Government

None.

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

Illinois:

The Illinois Department of Financial and Professional Regulation is responsible for the licensure and regulation of the practice of massage therapy in Illinois, with input from the Illinois Massage Licensing Board. The Illinois Department is also responsible for the promulgation of rules to implement certain sections of the Illinois Massage Therapy Practice Act. This Act contains requirements for applications, licensure, and discipline for massage therapists [225 Illinois Compiled Statutes ch. 57]. Illinois does not issue temporary licenses to practice massage therapy.

Iowa:

The Iowa Board of Massage Therapy is responsible for the licensure and regulation of the practice of massage therapy in Iowa. Chapter 152C of the Iowa Code includes statutory requirements for licensure, composition and powers of the Iowa Board, and discipline for massage therapists [Iowa Code ch. 152C]. The Iowa Administrative Code details rules relating to the practice of massage therapy, including requirements for temporary licensure. In Iowa, an individual who is licensed to practice massage therapy in another jurisdiction, but is unable to meet the requirements of licensure by endorsement is eligible for a temporary license. Such a temporary license is valid for up to one year and is not renewable. Any application for a temporary license must include a plan for meeting the requirements for regular licensure within one year. [645 Iowa Administrative Code ch. 131 s. 131.6].

Michigan:

The Michigan Board of Massage Therapy is responsible for the licensure and regulation of massage therapy practice in Michigan. Act 368 Article 15 Part 179A of the Michigan Compiled Laws includes the regulations for massage therapy in Michigan, among several other occupations. Some of the requirements in this part include those for licensure, renewal, and duties of the Michigan Board. [Michigan Compiled Laws ss. 333.17951-333.17969]. Michigan does not issue temporary licenses to practice massage therapy.

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 [Minnesota Statutes Chapter 146A].

19. Contact Name

Nilajah Hardin, Administrative Rules Coordinator

20. Contact Phone Number

608-267-7139

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE **24-054**

AN ORDER to amend MTBT 6.02 (1) (intro.) and (d), and (3) (a) and (b), and to create MTBT 6.02 (6), relating to temporary licenses.

Submitted by **MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING BOARD**

07-05-2024 RECEIVED BY LEGISLATIVE COUNCIL.

07-29-2024 REPORT SENT TO AGENCY.

MSK:KAM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 24-054

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

The statutes specify that a temporary license may not be renewed. [s. 460.08, Stats.] However, the proposed rule allows a subsequent temporary license to be issued if the person presents a substantial change in circumstances. [SECTION 1 of the proposed rule, amending s. MTBT 6.02 (3) (b).] The board should review its authority to issue multiple temporary licenses to a person and explain how multiple, consecutive temporary licenses to a single person with a substantial change in circumstances differs from a prohibited renewal.

2. Form, Style and Placement in Administrative Code

In SECTION 1 of the proposed rule, amending s. MTBT 6.02 (1) (d), the current full text of sub. (1) (d) should be shown. The second part of the current sentence is missing, and should be shown, whether it is amended or not. If the board intends to delete that portion of the current text of the rule, the current text should be shown with a strike-through.

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

In SECTION 1 of the proposed rule, amending s. MTBT 6.02 (1) (intro.), it appears that the new cross-reference should be corrected to “s. 460.05 (1) (f), Stats.”, in order to include sub. (1).

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

a. In the rule summary’s plain language analysis for the proposed rule, consider identifying the specific standards under the current rule to obtain a temporary license or more than one temporary license, and identifying how the specific standards will be different in the proposed rule. As proposed, the plain language analysis only states that the changes “include amendments regarding the exam and the ability of a licensee to receive more than one temporary license”. The analysis should contain sufficient detail to enable the reader to understand the content of the proposed rule and the changes made to the existing rules. [s. 1.01 (2) (b), Manual.]

b. The following comments apply in SECTION 1 of the proposed rule, amending s. MTBT 6.02 (3) (b):

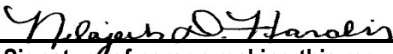
- (1) Consider describing the types of circumstances that could constitute a “substantial change in circumstances” or identifying the standard the board will use in determining whether a change is “substantial”. An agency should avoid using subjective terms when setting a standard or condition. For example, would the board consider serious illness, personal adversity, active military service, or other hindering circumstances to be a substantial change in circumstances that could warrant reissuance of a temporary license? [s. 1.08 (1) (k), Manual.]
- (2) Should the word “expiration” be revised to “issuance”? It seems that a hindering circumstance could have occurred after the issuance of the first temporary license, even before it expires.

c. The following comments apply in SECTION 2 of the proposed rule, creating s. MTBT 6.02 (6):

- (1) The phrase “Temporary licensees who fail” should be revised to “A temporary licensee who fails”, as the provision would apply to each individual licensee. [s. 1.05 (1) (c), Manual.]
- (2) The board should identify under what circumstances the temporary license would be reviewed and what standards apply to determining whether a temporary license would be revoked. Also, the phrasing suggests that there are circumstances in which a person with a temporary license may fail the examination but could retain the temporary license; if so, this could be stated more clearly and identify the circumstances in which that would occur.
- (3) Consider rephrasing the provision using active voice. For example, consider starting the sentence along the following lines: “The board may review a temporary license if...”, or “The board shall revoke a temporary license if...”.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 08/07/24 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 08/19/24	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. Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: Rule Projects Chart			
11) Authorization			
 Signature of person making this request		08/07/24 Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**Massage Therapy and Bodywork Therapy Affiliated Credentialing Board
Rule Projects (updated 8/07/24)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	MTBT 3	Education	Scope Statement Under DSPPS Office to the Secretary Review	Scope Submitted to the Board for Review and Approval
N/A	070-22	02/22/2025	MTBT 6	Temporary Licenses	Project stopped (modified and pursued under a new scope statement)	N/A
24-054	080-23	04/23/2026	MTBT 6	Temporary Licenses	Public Hearing Held at 8/19 Meeting	Drafting Final Rule and Legislative Report

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request:		2) Date when request submitted: 8/2/2024	
Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting			
3) Name of Board, Committee, Council, Sections: Massage Therapy and Bodywork Therapy Affiliated Credentialing Board			
4) Meeting Date: 8/19/2024	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Department of Veterans Affairs National Standard of Practice	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: The Department of Veterans Affairs will deliver a presentation to the Board about the National Standard of Practice for massage therapists.			
11) Authorization			
Signature of person making this request			Date
Supervisor (Only required for post agenda deadline items)			Date
Executive Director signature (Indicates approval for post agenda deadline items)			Date
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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. 			



DEPARTMENT OF VETERANS AFFAIRS
Under Secretary for Health
Washington DC 20420

August 1, 2024

Mr. Tom Ryan
Executive Director
Wisconsin Department of Safety & Professional
Services
Massage Therapy & Bodywork Therapy
Affiliated Credentialing Board
P.O. Box 8935
Madison, WI 53708

Dear Mr. Ryan:

The Department of Veterans Affairs (VA) is committed to honoring the Nation's Veterans by delivering world-class health care and service. In November 2020, VA [issued an interim final rule](https://www.federalregister.gov/documents/2020/11/12/2020-24817/authority-of-va-professionals-to-practice-health-care) (https://www.federalregister.gov/documents/2020/11/12/2020-24817/authority-of-va-professionals-to-practice-health-care) confirming that VA health care professionals may practice their health care profession consistent with the scope and requirements of their VA employment, notwithstanding any state license, registration, certification, or other requirements that unduly interfere with their practice.

VA is developing national standards of practice to uphold safe, high-quality care for the Nation's Veterans in VA's integrated health care system and to ensure that VA health care professionals can meet the needs of Veterans when practicing within the scope of their VA employment. National standards are designed to increase Veterans' access to safe and effective health care, thereby improving health outcomes for the Nation's Veterans. These standards apply exclusively to VA employees, and most VA health care professionals will not experience any change in the way they practice health care. National standards of practice also protect VA health care professionals from state disciplinary action that is based solely on those professionals practicing within the scope of their VA employment, which includes their VA national standard of practice. However, that does not prevent state boards from taking disciplinary actions against health care professionals for negligence or misconduct.

To develop national standards, VA reviewed state licensure, certification, and registration requirements; identified enterprise-wide practices that would enhance the practice of the profession at all VA medical facilities; and engaged with both VA employees and external stakeholders such as Veterans Service Organizations, labor partners, and professional associations relevant to the occupation.

We would like to provide you, as a state licensing board for Massage Therapists, the opportunity to comment directly to us on the proposed national standard for Massage Therapists (enclosed). Please note, this standard is not final. The Massage Therapist national standard has been posted in the [Federal Register](https://www.federalregister.gov/agencies/veterans-affairs-department/) (https://www.federalregister.gov/agencies/veterans-affairs-department/) for broader public

Page 2.

Mr. Tom Ryan

comment; we will post the link to our [website](https://www.va.gov/STANDARDSOFPRACTICE/providing-feedback.asp) (<https://www.va.gov/STANDARDSOFPRACTICE/providing-feedback.asp>) once the standard is available for public comment.

VA's proposed Massage Therapist standard of practice **does not** vary from your state's licensure requirements. However, there may be variances with other states' requirements.

If Wisconsin changes its requirements and places new limitations on the tasks and duties it allows which are inconsistent with what the national standard of practice authorizes, the national standard of practice preempts such limitations and authorizes the VA health care professional to continue to practice consistent with the tasks and duties outlined in the national standard. We encourage you to contact VA.NSP@va.gov if at any time you enact such a restriction.

We would appreciate acknowledgement of receipt of this letter and your comments on the VA standard within 60 days of receipt of this letter. Furthermore, please provide any context you believe would be appropriate on your state's licensing laws, regulations, requirements, or restrictions related to either the supervision of individuals in this occupation or the supervision of individuals in a related discipline that VA should consider. We also ask you to consider creating an exemption for Federal government employees within your state practice act.

We welcome the opportunity to further discuss the standard through a follow-up meeting if desired. Please send your comments and meeting request to VA.NSP@va.gov.

Thank you for your support in enabling VA health care professionals to provide the best health care to the Nation's Veterans.

Sincerely,



Shereef Elnahal, M.D., MBA

Enclosure

information provided during the registration process and present that to Security, for entry into the building. Please plan on arriving 30–45 minutes prior to the meeting to allow time for security. If you require reasonable accommodation, please contact the

Departmental Offices Reasonable Accommodations Coordinator at *ReasonableAccommodationRequests@treasury.gov*. If requesting a sign language interpreter, please make sure your request to the Reasonable Accommodations Coordinator is made

at least five (5) days prior to the event if possible.

Dated: July 28, 2024.

Snider Page,
Director, Office of Civil Rights and EEO and Designated Federal Officer.

CLEARANCE SHEET: Federal Register NOTICE

Memo Subject:	Treasury Advisory Committee on Racial Equity (TACRE) Federal Register Notice of September 9, 2024 Meeting		
Drafted by:	ODEIA	Snider Page	202–622–0341
Approved by:	Counselor	Janis Bowdler.	
Cleared by:	Exec Sec	<i>Deputy Exec Sec to insert.</i>	
	Deputy GCFO	Eric Nguyen.	
	ODEIA	Rhianna Rogers.	
	Equity Hub	Diane Lim.	
	GCFO	Brian Sonfield.	
	GLER	Christlan Furey.	
	PTR	Robert Faber.	
	PTR	Spencer Clark.	
	GLER	Heidi Cohen.	
	OPA	Ruby Robles Perez.	

[FR Doc. 2024–16965 Filed 7–31–24; 8:45 am]

BILLING CODE 4810-AK-P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Request for Information on the Department of Veterans Affairs Massage Therapist Standard of Practice

AGENCY: Department of Veterans Affairs.
ACTION: Request for information.

SUMMARY: The Department of Veterans Affairs (VA) is requesting information to assist in developing a national standard of practice for VA Massage Therapists. VA seeks comments on various topics to help inform VA's development of this national standard of practice.

DATES: Comments must be received on or before September 30, 2024.

ADDRESSES: Comments must be submitted through <http://www.regulations.gov/>. Except as provided below, comments received before the close of the comment period will be available at <http://www.regulations.gov/> for public viewing, inspection, copying, or including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: <http://www.regulations.gov/>. VA will not post on <http://www.regulations.gov/> public comments that make threats to individuals or institutions or suggest

that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date will not be considered.

FOR FURTHER INFORMATION CONTACT: Ethan Kalett, Office of Governance, Regulations, Appeals, and Policy (10B–GRAP), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–461–0500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Authority

Chapters 73 and 74 of 38 U.S.C. and 38 U.S.C. 303 authorize the Secretary to regulate VA health care professions to make certain that VA's health care system provides safe and effective health care by qualified health care professionals to ensure the well-being of those veterans who have borne the battle.

On November 12, 2020, VA published an interim final rule confirming that VA health care professionals may practice their health care profession consistent with the scope and requirements of their VA employment, notwithstanding any state license, registration, certification, or other requirements that unduly interfere with their practice. 38 CFR 17.419; 85 FR 71838. Specifically, this rulemaking confirmed VA's current practice of permitting VA health care professionals to deliver health care

services in a state other than the health care professional's state of licensure, registration, certification, or other requirement, thereby enhancing beneficiaries' access to critical VA health care services. The rulemaking also confirmed VA's authority to establish national standards of practice for its health care professionals, which would standardize a health care professional's practice in all VA medical facilities, regardless of conflicting state laws, rules, regulations, or other requirements.

The rulemaking explained that a national standard of practice describes the tasks and duties that a VA health care professional practicing in the health care profession may perform and may be permitted to undertake. Having a national standard of practice means that individuals from the same VA health care profession may perform the same type of tasks and duties regardless of the state where they are located or the state license, registration, certification, or other requirement they hold. We emphasized in the rulemaking and reiterate here that VA will determine, on an individual basis, that a health care professional has the proper education, training, and skills to perform the tasks and duties detailed in the national standard of practice, and that they will only be able to perform such tasks and duties after they have been incorporated into the individual's privileges, scope of practice, or functional statement. The rulemaking explicitly did not create any such national standards and directed that all national standards of practice would be subsequently created via policy.

Preemption of State Requirements

The national standard of practice will preempt any state laws, rules, regulations, or other requirements that both are and are not listed in the national standard as conflicting, but that do conflict with the tasks and duties as authorized in VA's national standard of practice. In the event that a state changes their requirements and places new limitations on the tasks and duties it permits in a manner that would be inconsistent with what is authorized under the national standard of practice, the national standard of practice will preempt such limitations and authorize the VA health care professional to continue to practice consistent with the tasks and duties outlined in the national standard of practice.

In cases where a VA health care professional's license, registration, certification, or other requirement permits a practice that is not included in a national standard of practice, the individual may continue that practice so long as it is permissible under Federal law and VA policy, is not explicitly restricted by the national standard of practice and is approved by the VA medical facility.

Need for National Standards of Practice

It is critical that VA, the Nation's largest integrated health care system, develops national standards of practice to ensure, first, that beneficiaries receive the same high-quality care regardless of where they enter the system and, second, that VA health care professionals can efficiently meet the needs of beneficiaries when practicing within the scope of their VA employment. National standards are designed to increase beneficiaries' access to safe and effective health care, thereby improving health outcomes. The importance of this initiative has been underscored by the coronavirus disease 2019 (COVID-19) pandemic. The increased need for mobility in VA's workforce, including through VA's Disaster Emergency Medical Personnel System, highlighted the importance of creating uniform national standards of practice to better support VA health care professionals who practice across state lines. Creating national standards of practice also promotes interoperability of medical data between VA and the Department of Defense (DoD), providing a complete picture of a veteran's health information and improving VA's delivery of health care to the Nation's veterans. DoD has historically standardized practice for certain health care professionals, and VA has closely

partnered with DoD to learn from their experience.

Process To Develop National Standards of Practice

As authorized by 38 CFR 17.419, VA is developing national standards of practice via policy. There is one overarching directive to describe Veterans Health Administration (VHA) policy on national standards of practice, VHA Directive 1900(5), VA National Standards of Practice, August 30, 2023. The directive is accessible on VHA's publications website at <https://www.va.gov/vhapublications/>. As each individual national standard of practice is finalized, it is published as an appendix to the directive and accessible at the same website.

To develop these national standards, VA is using a robust, interactive process that adheres to the requirements of Executive Order (E.O.) 13132 to preempt conflicting state laws, rules, regulations, or other requirements. For each health care occupation, a workgroup comprised of VA health care professionals in the identified occupation conducts research to identify internal best practices that may not be authorized under every state license, certification, or registration, but would enhance the practice and efficiency of the profession throughout VA. If a best practice is identified that is not currently authorized by every state, the workgroup determines what education, training, and skills are required to perform such tasks and duties. The workgroup then drafts a proposed VA national standard of practice using the data gathered and any internal stakeholder feedback received. The workgroup may consult with internal or external stakeholders at any point throughout the process.

The process to develop VA national standards of practice includes listening sessions for members of the public, professional associations, and VA employees to provide comments on the variance between state practice acts for specific occupations and what should be included in the national standard of practice for that occupation. The listening session for Massage Therapists was held on August 31, 2023. No professional associations presented comments on the Massage Therapist standard of practice.

After the proposed standard is developed, it is first internally reviewed. This includes a review from an interdisciplinary VA workgroup consisting of representatives from Quality Management, VA medical facility Chief of Staff, Academic Affiliates, Veterans Integrated Services

Network (VISN) Chief Nursing Officer, Ethics, Workforce Management and Consulting, Surgery, Credentialing and Privileging, VISN Chief Medical Officer, and Electronic Health Record Modernization.

After the internal review, VA provides the proposed national standard of practice to our DoD partners as an opportunity to flag inconsistencies with DoD standards. VA also engages with labor partners informally as part of a pre-decisional collaboration. Consistent with E.O. 13132, VA sends a letter to each state board and certifying organization or registration organization, as appropriate, which includes the proposed national standard and offers the recipient an opportunity to discuss the national standard with VA. After the state boards, certifying organizations, or registration organizations have received notification, the proposed national standard of practice is posted in the **Federal Register** for 60 days to obtain feedback from the public, professional associations, and any other interested parties. At the same time, the proposed national standard is posted to an internal VA site to obtain feedback from VA employees. Responses received through all vehicles—from state boards, professional associations, unions, VA employees, and any other individual or organization who provides comments via the **Federal Register**—will be reviewed. VA will make appropriate revisions in light of the comments, including those that present evidence-based practice and alternatives that help VA meet our mission and goals. VA will publish a collective response to all comments at <https://www.va.gov/standardspractice/>.

The national standard of practice is then finalized, approved, and published in VHA policy. Any tasks or duties included in the national standard will be properly incorporated into individual VA health care professionals' privileges, scope of practice, or functional statement once it has been determined by their VA medical facility that the individual has the proper education, training, and skills to perform the task or duty. Implementation of the national standard of practice may be phased in across all VA medical facilities, with limited exemptions for health care professionals as needed.

Format for the Proposed National Standard for Massage Therapist

The format for the proposed national standards of practice when there are state licenses, registrations, or certifications is as follows. The first paragraph provides general information

about the profession and what the VA health care professionals can do. For this national standard, Massage Therapists skillfully assess and manipulate the soft tissues of the human body for therapeutic purposes. Massage Therapists assess patients, develop evidence-based, individualized massage therapy treatment plans, and participate as members of interdisciplinary health care teams. We reiterate that the proposed standard of practice does not contain an exhaustive list of every task and duty that each VA health care professional can perform. Rather, it is designed to highlight generally what tasks and duties the health care professionals perform and how they practice within VA.

The second paragraph references the education and license, registration, or certification needed to practice this profession at VA. Qualification standards for employment of health care professionals by VA are outlined in VA Handbook 5005, Staffing, dated July 8, 2024. VA follows the requirements outlined in its qualification standards even if the requirements conflict with or differ from a state requirement. National standards of practice do not affect those requirements. For Massage Therapists, VA qualification standards require an active, current, full, and unrestricted state license, registration, or certification.

The second paragraph also notes whether the national standard of practice explicitly excludes individuals who practice under "grandfathering" provisions. Qualification standards may include provisions to permit employees who met all requirements prior to revisions to the qualification standards to maintain employment at VA even if they no longer meet the new qualification standards. This practice is referred to as grandfathering. Massage Therapists have grandfathering provisions included within their qualification standards, and VA proposes to have those individuals authorized to follow the Massage Therapist national standard of practice.

Therefore, there would be no notation regarding grandfathered employees in the national standard of practice as they would be required to adhere to the national standard as any other VA Massage Therapist who meets the current qualification standards.

The third paragraph establishes what the national standard of practice will be for the occupation in VA. It includes whether the profession can practice all duties covered by their license, certification, or registration. For Massage Therapists, they can perform all tasks and duties authorized under their applicable license, registration, or certification. VA reviewed the state laws and practice acts for Massage Therapists on November 2023 and did not identify any conflicts that impact practice of this profession in VA.

This national standard of practice does not address training because it will not authorize VA Massage Therapists to perform any tasks or duties not already authorized under their state license, registration, or certification.

Following public and VA employee comments and revisions, each national standard of practice that is published in policy will also include the date for recertification of the standard of practice and a point of contact for questions or concerns.

Proposed National Standard of Practice for Massage Therapist

Note: All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.

1. Massage Therapists skillfully assess and manipulate the soft tissues of the human body for therapeutic purposes. Massage Therapists assess patients, develop evidence-based, individualized massage therapy treatment plans, and participate as members of interdisciplinary health care teams. They use their hands, arms, knees, and feet to perform soft tissue manipulation. Massage Therapists incorporate active and passive range of motion exercise. They also utilize devices and tools to

mimic or enhance manual therapy; incorporate adjunctive modalities; educate patients in health promotion, disease prevention and holistic self-care methods; and facilitate mind-body awareness to achieve healing.

2. Massage Therapists in the Department of Veterans Affairs (VA) possess the education and license, registration, or certification required by VA qualification standards. See VA Handbook 5005, Staffing, Part II, Appendix G56, dated March 12, 2019.

3. VA Massage Therapists can practice all duties covered by their license, local registration, or local certification; or practice in accordance with the National Certification Board for Therapeutic Massage and Bodywork certification, available at: <https://ncbtmb.org/>. VA reviewed the state laws and practice acts for Massage Therapists on November 2023 and did not identify any conflicts that impact practice of this profession in VA.

Request for Information

1. Is VA's assessment of what states permit and restrict accurate?
2. Are there any areas of variance between state licenses, certification, registration, or other requirement that VA should preempt that are not listed?
3. Is there anything else you would like to share with us about this VA national standard of practice?

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on July 17, 2024 and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Michael P. Shores,

Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2024-16944 Filed 7-31-24; 8:45 am]

BILLING CODE 8320-01-P