

STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED CREDENTIALING
BOARD

IN THE MATTER OF RULEMAKING	:	NOTICE OF TIME PERIOD
PROCEEDINGS BEFORE THE	:	FOR COMMENTS FOR THE
MESSAGE THERAPY AND BODYWORK	:	ECONOMIC IMPACT ANALYSIS
THERAPY AFFILIATED	:	
CREDENTIALING BOARD	:	

NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board relating to application for a license and approved training programs, including how this proposed rule may affect businesses, local government units and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Dale Kleven, Administrative Rules Coordinator
Division of Policy Development
Department of Safety and Professional Services
PO Box 8366
Madison, WI 53708-8935
DSPSAdminRules@wisconsin.gov

The deadline for submitting economic impact comments is April 4, 2018.

PROPOSED ORDER

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

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 460.04 (2) (b), Stats.

Statutory authority:

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

Explanation of agency authority:

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

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

Section 460.04 (2) (e), Stats., provides the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board shall promulgate rules that establish “[a] requirement that an applicant for a license under this chapter submit evidence satisfactory to the affiliated credentialing board that the applicant has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.”

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

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

Related statute or rule:

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

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

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

Plain language analysis:

Current rules contain requirements that a school that is neither approved by the Educational Approval Board nor a technical college established pursuant to s. 38.02, Stats., be “approved by an accrediting agency” or “accredited by an accrediting agency.” The vagueness of these terms makes approval of applications for licensure and training programs difficult. In addition, recent legislation (2017 Wisconsin Act 59) transferred responsibility for school approvals from the Educational Approval Board to the Department of Safety and Professional Services. The proposed rules create a requirement that a school not approved by the Department of Safety and Professional Services nor a technical college established pursuant to s. 38.02, Stats., have approval or accreditation that is in good standing from one of the following:

- An accrediting agency with recognition by the United States Department of Education that is current.

- A state government agency or territorial government agency located in the state or territory in which the school is located and whose criteria for approval of schools is substantially equivalent, as determined by the board, to the criteria under s. SPS 404.04.

The proposed rules revise s. MTBT 2.01 (3) (g) to reflect that the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) currently offers only one examination for certification, the Board Certification Examination for Therapeutic Massage and Bodywork (BCETMB). Section MTBT 2.01 (3) (g) is also revised to specify that the Massage and Bodywork Licensing Examination (MBLEx) offered by the Federation of State Massage Therapy Boards is an approved examination.

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

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

None.

Comparison with rules in adjacent states:

Illinois:

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

An applicant for a license to practice massage therapy in Illinois must 1) be at least 18 years of age and of good moral character; 2) have completed at least 600 hours of supervised classroom and supervised hands-on instruction from an approved massage therapy program while maintaining a minimum grade of 70% for all massage therapy related course and clinical work; 3) have passed the National Certification Board for Therapeutic Massage and Bodywork's (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx) administered by the Federation of State Massage Therapy Boards (FSMTB); 4) have verification of fingerprint processing from the Illinois Department of State Police (ISP) or other certified or licensed vendor; and 5) pay the required fee. (68 Ill. Adm. Code 1284.30 (2014))

An in-state massage therapy program must include at least 600 hours of supervised classroom and supervised hands-on instruction and meet certain other minimum criteria to be considered an approved massage therapy program. This includes criteria relating to 1) classroom instruction subject matter and hands-on instruction activities; 2) number of faculty and faculty and faculty assistant qualifications; 3) maintenance of student records; 4) having written plans of organization and study; and 5) use of a living human being for hands-on practice. A massage therapy program from another jurisdiction must have substantially similar criteria for an applicant to have his or her credentials accepted for licensure by IDFPR. (68 Ill. Adm. Code 1284.20 (2014))

Iowa:

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

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

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

Michigan:

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

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

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

Minnesota:

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

Summary of factual data and analytical methodologies:

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

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

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

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

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

TEXT OF RULE

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

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

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

(Note) Application forms are available upon request to the Department of Safety and Professional Services at ~~1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ (608) 266-2112, dsps@wisconsin.gov, or at the Department's website at <http://dsps.wi.gov>.

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

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

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

(Note) A list of approved schools is available upon request to the ~~Educational Approval Board, 30 West Mifflin Street, 9th Floor, P.O. Box 8696, Madison, Wisconsin 53708~~ Department of Safety and Professional Services at (608) 266-2112 or dsps@wisconsin.gov.

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

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

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

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

MTBT 2.01 (3) (b) 3. (intro.) ~~A school approved by an accrediting agency. that, at the time the course of study is completed, has approval or accreditation that is in good standing from one of the following:~~

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

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

Note: A list of recognized accrediting agencies is available from the United States Department of Education's website at www.ed.gov.

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

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

MTBT 2.01 (3) (g) (intro.) ~~Has passed either the national certification examination for therapeutic massage and bodywork or the national certification examination for therapeutic massage that are offered by the national certification board for therapeutic massage and bodywork, or another examination relating to the practice of massage therapy or bodywork that is administered by a national board that is accredited by the national commission for certifying agencies or a substantially equivalent examination approved by the department. one of the following examinations:~~

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

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

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

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

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

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

6. An examination relating to the practice of massage therapy or bodywork that is administered by a national board that is accredited by the National Commission for Certifying Agencies.

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

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

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

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

SECTION 7. MTBT 2.015 is amended to read:

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

(1) Is currently either certified or recertified by the ~~national certification board~~ National Certification Board for ~~therapeutic massage~~ Therapeutic Massage and ~~bodywork~~ Bodywork.

(2) Is currently either certified or recertified as active and in good standing by any other organization accredited to certify massage therapy or bodywork by the ~~national commission~~ National Commission for ~~certifying agencies~~ Certifying Agencies.

SECTION 8. MTBT 2.03 (1) (intro.), (a), (Note), (b), and (c) (intro.) and (2) (a) and (b) are amended to read:

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

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

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

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

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

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

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

SECTION 9. MTBT 2.04 is amended to read:

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

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

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

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

MTBT 3.01 (4) (b) (intro.) A course of instruction in massage therapy or bodywork offered by a school ~~accredited by an accrediting agency at the time the individual completes the course of instruction.~~ that, at the time of the applicant's graduation, has approval or accreditation that is in good standing from one of the following:

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

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

Note: A list of recognized accrediting agencies is available from the United States Department of Education's website at www.ed.gov.

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

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

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

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

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

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

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

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

SECTION 14. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
