

**STATE OF WISCONSIN
MESSAGE THERAPY AND BODYWORK THERAPY AFFILIATED
CREDENTIALING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
MESSAGE THERAPY AND : CR 24-054
BODYWORK THERAPY AFFILIATED :
CREDENTIALING BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

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 when a substantial change in circumstances occurs. These updates shift the focus of the temporary license to allow for an applicant to practice while they are waiting to take their examination under s. 460.06, Stats., as opposed to centering applicants who have already taken the exam and whether or not they have failed it. 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.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Massage Therapy and Bodywork Therapy Affiliated Credentialing Board held a public hearing August 19, 2024. No comments were received.

Pursuant to s. 15.085 (5) (b), Stats., the Medical Examining Board reviewed the proposed rule and made the following comment:

“MTBT 6.02 (3) (b) should be amended to read ‘No person shall be issued more than one temporary license’.”

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A

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 24-054)

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. These updates allow for an applicant to practice while they are waiting to take their examination under s. 460.06, Stats., which provides a mechanism for oversight and supervision of applicants' practice while their applications are still pending. 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 (1) (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., ~~unless the applicant has subsequently passed the failed examination.~~

(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~~.

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

MTBT 6.02 (6) The board may review a temporary licensee who fails to pass the examination under s. 460.06, Stats., to determine whether they are competent to continue practicing under their temporary license or if a revocation of the credential is necessary for the safety and welfare of the public. The determination of whether a temporary license is revoked shall be entirely within the discretion of the board.

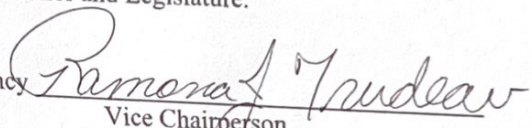
SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board is approved for submission to the Governor and Legislature.

Dated 1-22-2025

Agency


Vice Chairperson
Massage Therapy and Bodywork Therapy
Affiliated Credentialing Board

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 <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input type="checkbox"/> Increase Existing Revenues</td><td><input checked="" type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table>		<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	
<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) <table style="width: 100%;"><tr><td><input type="checkbox"/> State's Economy</td><td><input type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td></tr></table>		<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)			
<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.

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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
