



Associated Bodywork & Massage Professionals

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Department of Licensing and Regulatory Affairs  
Attention: Desmond Mitchell, Policy Analyst  
Bureau of Health Professions – Massage Therapy Rules Public Hearing  
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RE: 2012 Michigan Rule Comment

ABMP would like to take this opportunity to thank the board and staff for the time and effort you have all invested in this proposal. We are aware of the challenges this process has brought and thank the board members for their diligent analysis of the facts before committing to proposals. It is not an easy task and we sincerely appreciate the thoughtful consideration given to details.

ABMP has a few remaining concerns:

### **R 338.707 Supervised student clinic; requirements**

There was opposition to the concept of the board setting rules for student clinic when it was originally discussed, and there remains significant opposition now. The board has the authority to regulate massage therapists. The board does not have the authority to regulate schools.

- ABMP believes this proposed section would significantly impact curriculum and schools and the Board does not have legislative authority over schools.
- Even the Regulatory Impact Statement and Cost-Benefit Analysis, developed in accordance with the Administrative Procedures Act (APA), describes this proposed provision as inconsistent with the rest of the states that license massage therapists.
- Many states require a minimum amount of supervised clinic be completed as part of the entry-level requirements. However, **no** other state in the country, through regulation of massage therapists, has this level of detail in defining “supervised student clinic or curriculum.”
- R 338.705, Rule 5 (e) already states... One hundred twenty-five hours of instruction in an area or related field, as determined by the school, that completes the massage therapy program of study, which shall include a minimum of 40 hours performing massage therapy services in a supervised student clinic. ....”
- In order to fit forty hours of pathology in prior to beginning clinic, the student would have to have completed significant anatomy and physiology and other courses in order to comprehend pathology. To this end, the board is mandating more than simply pathology being complete prior to clinic.

ABMP has heard from schools that have purposely placed the pathology component to later in the program because it was better for students and their learning process. The board is now attempting to “standardize” massage programs even when the schools direct experience has indicated a more successful path for students. *Schools are already regulated and should continue to have some flexibility in designing their programs based on successful student outcomes that they experience every day.*

This proposed rule will also lead to problems for applicants who attended an out of state school or are attempting to qualify by endorsement.

- The board will not be able to enforce this provision for out of state licensing applicants. Usually states require a transcript, diploma, or other appropriate documentation of training. Transcripts don't address the order of courses or when clinic is taken, it only identifies hours in each subject.
- In terms of endorsement, the board will not be able to determine the order in which an applicant completed courses from a transcript. There will be absolutely no way to determine the order in which courses were completed for graduates of closed schools or for applicants who completed massage programs a long time ago. This provision will only serve to delay applicants entry into the profession for no apparent reason.

***ABMP recommends the board eliminate R 338.707, Rule 7.***

**R 338.721 Prohibited conduct.**

ABMP agrees that a licensee should not solicit or engage in a sexual relationship with a current client. We believe the board takes the proposed regulation (*Rule 23 (g) (ii)*) too far by attempting to legislate a "waiting period" of 6 months. The Board is attempting to regulate the private lives of professionals.

If a licensee is actually accused of this prohibited conduct, this language allows the board to use common sense in determining whether or not it was indeed unprofessional behavior. There are several factors that make this provision especially difficult to evaluate, including the fact that the majority of massage therapists don't enjoy regularly scheduled clients. For example, if a licensee treats a client one time, then happens to meet the client at a social event 4 months later and they decide to date. An ex-partner of one of the people complains to the Board. Does this circumstance define unprofessional behavior? Is this circumstance even the Board's business? ABMP would not categorize this as unprofessional behavior or Board's business, yet by this definition of prohibited acts, the licensee would be disciplined. This exact circumstance happened in Minnesota and it led the legislature to remove the "6 month waiting period" from the law. This is a good opportunity to learn from other states and avoid a costly problem in the future.

***ABMP recommends the board simply eliminate the reference to 6 months altogether.  
(ii) The licensee solicits or engages in a sexual relationship with a current or former client.***

Thank you for the opportunity to comment.

Sincerely,



Jean Robinson, Government Relations Director