



Associated Bodywork & Massage Professionals

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Alaska Board of Massage Therapists  
ATT: Jun Maiquis, Regulations Specialist  
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**Via email:** [jun.maiquis@alaska.gov](mailto:jun.maiquis@alaska.gov)

Dear Board Members,

Thank you for the opportunity to comment on the draft regulations relating to the licensing and practice of massage therapists in Alaska. Associated Bodywork & Massage Professionals (ABMP) has identified several concerns, as follows:

**Additional Regulations Notice Information: Estimated costs in the aggregate to comply with the proposed action to private persons.**

As detailed in our letter to the Board of May 15, 2015, the proposed \$1,020 license and renewal fees would be, by far, the most expensive in the country. Most states charge less than \$200 for a biennial license, and \$125 to renew the license every two years. ***The simple reality is that the proposed fee is cost prohibitive for the average massage therapist who earns less than \$22,000 per year providing massage on a part-time basis.*** These are common statistics observed by both ABMP and AMTA in member surveys. Our members cannot afford \$600 licensing fees. Alaska's proposed fee is completely out of line with the license fees in every other state, and it will put Alaska massage therapists out of business.

**12 AAC 79.100(b)(1)(B); 12 AAC 79.110(b)(1)(B); 12 AAC 79.120(b)(1)(B).**

These three proposed rules require that, in order to receive a license, license applicants must provide "information on the applicant's physical and mental health related to the grounds for imposition of disciplinary sanctions in AS 8.61.060." The license application forms currently posted on the Board's website appear to relate to this rule by requiring that the applicant answer whether, "[w]ithin the past five years, have you been or are you addicted to, excessively used, or misused alcohol, narcotics, barbiturates, or habit-forming drugs." The Board does not have legal authority to require this information on the license application. Section 08.61.030 of the Alaska massage statute sets the requirements for licensure. That section states that the Board shall issue a license to an applicant who satisfies the following requirements:

- (1) applies on a form provided by the department;
- (2) pays the fees established under AS 08.61.090;
- (3) furnishes evidence satisfactory to the board that the person has completed a
  - (A) course of study of at least 500 hours of in-class supervised instruction and clinical work from an approved massage school; or

(B) board-approved apprenticeship program;

(4) is 18 years of age or older;

(5) has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

(6) has a current cardiopulmonary resuscitation certification;

(7) has received at least four hours of safety education covering bloodborne pathogens and universal precautions in the two years preceding the application for the license; in this paragraph, "bloodborne pathogens" has the meaning given in AS 18.15.450;

(8) has successfully completed a nationally recognized competency examination approved by the board; and

(9) has not been convicted of, or pled guilty or no contest to, a crime involving moral turpitude, or who has been convicted of, or pled guilty or no contest to, a crime involving moral turpitude if the board finds that the conviction does not affect the person's ability to practice competently and safely.

*The Board has no authority to create and impose application requirements beyond those listed in Section 08.61.030 of the statute. Requiring disclosure of an applicant's past substance use or abuse is not listed in Section 08.61.030 of the statute. Subsections 12 AAC 79.100(b)(1)(B), 12 AAC 79.110(b)(1)(B), 12 AAC 79.120(b)(1)(B) therefore should be deleted from the proposed regulations, and Part V.3 of the license application forms should be removed.*

**12 AAC 79.100(b)(2); 12 AAC 79.100(b)(4).**

Section 08.61.030(3) of the Alaska massage statute states that the license applicant must furnish evidence satisfactory to the Board that the person has "completed a (A) course of study of at least 500 hours of in-class supervised instruction and clinical work from an approved massage school; or (B) board-approved apprenticeship program."

Sec. 08.61.100(1) of the statute defines "approved massage school" as "a massage therapy school or program that (A) has an authorization to operate from the Alaska Commission on Postsecondary Education or a similar entity in another state; or (B) is accredited by a nationally recognized accrediting agency." (Emphasis added). Thus, pursuant to the statute, in order to be an "approved" school, the school may be either accredited by a nationally recognized accrediting agency, or authorized to operate by the Alaska Commission on Postsecondary Education or a similar entity in another state.

However, Proposed Rule 12 AAC 79.100(b)(2) requires that the applicant must have "a certified transcript sent directly to the department from one of the following board-approved massage school accrediting agencies... ." <sup>1</sup> This is presented as an independent, not alternative, requirement. However,

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<sup>1</sup> The first three entities listed in 12 AAC 79.100(b)(2) (the American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professionals (ABMP), and the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB)), **are not** in fact massage school accrediting agencies. AMTA and ABMP are professional membership associations, and NCBTMB is a voluntary credentialing body for individuals, not schools. Nationally-recognized school accrediting agencies include: the Accrediting Bureau of Health Education Schools; the Accrediting Commission of Career Schools and Colleges of Technology; the Accrediting Council for Continuing Education & Training; the Accrediting Council for Independent Colleges and Schools; the Commission on Massage Therapy Accreditation; the Council on Occupational Education; and the National Accrediting Commission of Cosmetology Arts & Sciences.

again, the statute states that in order to be an "approved" school, the school may be *either* accredited by a nationally recognized accrediting agency, *or* authorized by the Alaska Commission on Postsecondary Education or a similar entity in another state. ***We therefore respectfully suggest that subsection (2) of proposed Rule 12 AAC 79.100(b) deleted. We further suggest that subsection (4) of proposed Rule 12 AAC 79.100(b) be redrafted for clarity, as follows:***

**(2) the following evidence of massage education and/or training:**

- (A) an official school transcript evidencing completion of a course of study of at least 500 hours of in-class supervised instruction and clinical work from a massage therapy school or program that (i) has an authorization to operate from the Alaska Commission on Postsecondary Education or a similar entity in another state, or (ii) is accredited by a nationally recognized accrediting agency; or**
- (B) satisfactory evidence of completion a board-approved apprenticeship program.**

**Board approval of apprenticeship programs.**

Again, section 08.61.030(3) of the Alaska massage statute states that the license applicant must furnish evidence satisfactory to the Board that the person has completed either a "(A) course of study of at least 500 hours of in-class supervised instruction and clinical work from an approved massage school; or (B) board-approved apprenticeship program."

The draft rules do not establish any procedures or criteria for Board approval of apprenticeship programs. ***We respectfully request that the Board provide guidance, either by rule or by information posted to the Board's website, concerning what applicants must do in order to obtain Board approval of their apprenticeship programs.***

**12 AAC 79.100(b)(3).**

The name of the exam administered by the Federation of State Massage Therapy Boards (FSMTB) is the "Massage & Bodywork Licensing Examination," or "MBLEx", not the "Board Certification Examination for Therapeutic Massage and Bodywork," as stated in draft rule 12 AAC 79.100(b)(3).

Further, the language of the rule can be simplified to avoid confusion. The National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) stopped offering and administering entry-level exams on February 1, 2015. Therefore, it was not possible for someone to take an NCBTMB exam after February 1, 2015. However, someone who passed the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB) or the National Certification Exam for Therapeutic Massage (NCETM) exam prior to February 1, 2015, but applies for licensure sometime after February 1, 2015, can still submit verification of his or her past exam results to the Board. The rule as currently drafted is confusing on this point. ***We respectfully suggest that the rule be re-drafted to state:***

**(3) verification of having passed**

- (A) the Massage & Bodywork Licensing Examination (MBLEx) administered by the Federation of State Massage Therapy Boards, or**
- (B) an exam administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB).**

**12 AAC 79.100 (b) (4).**

An applicant is already required to submit an official school transcript or other satisfactory evidence they have completed a massage program of at least 500 hours. This (4) is redundant and confusing and we recommend it be deleted.

**12 AAC 79.110(b)(2)(A) and (B).**

Section 08.61.040 of the massage statute, "Licensure by credentials," states that the Board shall issue a license to a person who satisfies the criteria listed in subsections (1)-(8) and who also (9) "is currently (A) licensed to practice massage therapy in another *state* or country that has licensing requirements that are substantially equal to or greater than the requirements of this state; or (B) *certified by a certification entity approved by the board.*" (Emphasis added).

Addressing section 08.61.040(9) of the statute, 12 AAC 79.110(b)(2) states that the applicant must submit verification that he or she "(A) holds a current license to practice massage therapy in another *jurisdiction* or country where licensing requirements are substantially equal to or greater than the requirements of this state; or (B) certified by *the American Massage Therapy Association* or the National Certification Board for Therapeutic Massage and Bodywork or other board-approved *credentialing agency*[" (Emphasis added).

We respectfully request that the word "jurisdiction" be replaced by the word "state" in 12 AAC79.110(b)(2)(A), since "jurisdiction" includes local jurisdictions such as cities and towns, which often do issue massage licenses. Further, the statute requires certification by a "certification entity," not a "credentialing agency." 12 AAC 79.110(b)(B) needs to be changed; AMTA is not a "certification entity;" it is a membership association which does not issue professional certifications.

***We therefore suggest that 12 AAC79.110(b)(2) be re-drafted to comply with the statute by stating that the applicant must submit verification that he or she "(A) holds a current license to practice massage therapy in another state or country where licensing requirements are substantially equal to or greater than the requirements of this state; or (B) is certified by the National Certification Board for Therapeutic Massage and Bodywork or other board-approved certification entity["***

We believe this is the intention of the proposed rule, however, for clarification purposes, a mandatory state license to practice massage therapy and voluntarily becoming certified by the NCBTMB are not equal. A state has the authority to take away a person's right to practice. NCBTMB does not have that authority since it is an independent certification board. NCBTMB can only revoke the person's certification, he or she could still practice massage if licensed by the state.

**12 AAC 79.200(b)(2), (3).**

Section 08.61.050(5) of the statute states that a licensee seeking renewal must have been fingerprinted and must have paid the fingerprint processing fee. 12 AAC 79.200(b)(2) and (3) more specifically require that an applicant for license renewal pay for and submit new fingerprints every two years with license renewal. ***We submit that Section 08.61.050(5) would be satisfied if the Board receives state and federal subsequent arrest notifications, as regulatory boards do in other states.*** This would eliminate the significant costs and administrative burdens imposed by requiring each licensee to submit and pay for new fingerprints every two years.

**12 AAC 79.210.**

We have several concerns with respect to the Board’s proposed continuing education (CE) rules. First, requiring 24 hours of CE every two years is excessive. CE courses can cost hundreds of dollars, which of course is in addition to the other fees required for renewal. The purpose of professional regulation is to protect the public; CE requirements should be based on that concept. Not by what individuals deem necessary or what one of the professional membership associations requires. Twelve hours of CE every two years is more than sufficient for a licensee in this profession to maintain safe and competent practice standards. The Federation of State Massage Therapy Boards (FSMTB), after a thorough analysis of the professional, educational, and regulatory environments (including disciplinary cases) recommends 6 hours per year or 12 hours every 2 years in CE. **We ask that the Board join other states such as Idaho, Montana, and Texas in requiring 12 hours of approved CE every two years.** We also believe that all licensees should be exempt from CE their first renewal cycle.

Second, the draft regulations do not provide any guidance as to (1) how many hours of the required CE may be taken online, and (2) what general subject matter areas qualify for CE. Since many Alaskan practitioners do not have easy geographic access to massage schools and other educational providers, we suggest that the Board allow all of the required CE hours to be taken online. We further suggest that the rules include language stating that the CE must “pertain to the practice or theory of massage therapy.”

Third, 12 AAC 79.210(d) requires that “[a]ll continuing education must be completed by a board-approved provider,” but does not list what those Board-approved providers are, or how a provider can become Board-approved. **We suggest that 12 AAC 79.210(d) be re-drafted to state that:**

**All continuing education must be provided or approved by:**

- (a) State-approved massage therapy or bodywork therapy schools or training programs;**
- (b) State institutions of higher education;**
- (c) Local, state, or national professional organizations that serve the massage therapy profession, including but not limited to Associated Bodywork & Massage Professionals (ABMP), the American Massage Therapy Association (AMTA), the Federation of State Massage Therapy Boards (FSMTB), and the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), or**
- (d) an educational provider who has applied to the board for provider approval and has received such approval from the board.**

Accordingly, the Board should provide guidance on its website as to how a CE provider can qualify and apply for approved provider status from the Board.

**New Massage Therapist Application Form: verification of education or apprenticeship.**

Part III of the New Massage Therapist license application form states that “Transcripts must be sent directly to the Division by the school.”<sup>2</sup> However, approved massage schools routinely go out of business, in which case a transcript cannot be sent by the (now-closed) school. We respectfully request that the Board provide guidance on its website regarding the alternative means by which a license applicant may submit proof of education when the school that he or she attended has closed.

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<sup>2</sup> This contradicts draft rule 12 AAC 79.100(b)(2), which requires that transcripts be sent directly to the Board by a “board-approved massage school accrediting agenc[y].” However, we suggest that rule 12 AAC 79.100(b)(2) be deleted in its entirety, as discussed above.

Further, the New Massage Therapist license application form does not provide a means by which someone can apply for a license based on completion of a Board-approved apprenticeship program pursuant to Section 08.61.030(3)(B) of statute. We respectfully request that the Board revise the application form to include such a provision.

### **Applications - Authorization for Release of Records.**

On page 6 of the "Practicing Massage Therapists" application and page 5 of the "New Massage Therapist Application," there is a release the applicant must sign which authorizes the state to examine the applicant's medical and dental records, and any records pertaining to psychiatric or drug and alcohol evaluation or treatment – without limitation. The statute does not authorize the Board to collect this information. In addition, the "General Information" section of the instructions states that "all information on the initial application will be available to the public, unless required to be kept confidential by state or federal law." The Board does not have the authority to require this Release of Records for all applicants and it is a real privacy concern. It would be appropriate for the Board to examine the medical records of a licensee during a disciplinary investigation (specifically to 08.61.060(7))but to require this release for all applicants is unacceptable.

Thank you for your consideration of ABMP's comments. We are obviously very concerned with the state of massage therapy regulation in Alaska. There has been conflicting and confusing information presented on the Board of Massage Therapists website since its development. The first interpretation of the law indicated that massage therapists would have to become licensed by July 1, 2017. We agreed with that interpretation and that was the certainly the intention when we worked with the Alaska Chapter of the American Massage Therapy Association on specific parts of the bill during the drafting stages. Massage therapists were told repeatedly that the fees would be reasonable and they would have ample time to apply. This is certainly not how things have turned out. The current interpretation of the law is that massage therapists would have been required to become licensed by July 1, 2015 – wholly impossible since these regulations were not even passed at that time and should not be passed now, and completely irresponsible if the legislature truly intended such an unreasonable timeframe (which we believe they did not).

We urge the Board members and the Department not to rush through this process. We have pointed out numerous issues with this draft proposal; not only factually incorrect information, but a lack of clarity and completeness in general. Several subjects such as apprentice programs and CE providers are not even addressed. We feel very uncomfortable urging members to apply for licensing under these circumstances. Applicants won't even be clear about what is expected of them until the regulations are clear and accurate. We are happy to help in any way.

If you have any questions please do not hesitate to contact me at 800-458-2267 extension 645 or [jean@abmp.com](mailto:jean@abmp.com).

Sincerely,



Jean Robinson  
Government Relations Director