



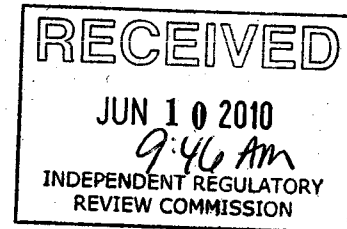
**American Massage Therapy  
Association**

**Pennsylvania Chapter**

2843

June 4, 2010

Arthur Coccodrilli, Chairman  
Independent Regulatory Review Commission  
333 Market Street  
14th Floor  
Harrisburg, PA 17101



RE: State Board of Massage Therapy Regulations

Dear Chairman Coccodrilli:

The American Massage Therapy Association—Pennsylvania Chapter has reviewed the State Board of Massage Therapy's proposed regulations. We have listed the concerns of our members below and would be happy to provide further details if requested.

We would also like to thank the Pennsylvania State board of Massage Therapy for all of the work that has gone into creating the proposed rules and regulations. Thank you for taking the time to read our comments and concerns and we look forward to participating in moving the process forward.

Sincerely,

Brenda Schuck  
President, AMTA Pa Chapter  
Email: BJ6698@aol.com

1. Section 20.24 regarding the requirements for an existing practitioner.

**Proposed Regulation:**

**§ 20.24. Application requirements for existing practitioners.**

(a) Existing practitioners shall submit, by \_\_\_\_\_ (*Editor's Note: The blank refers to a date 1 year after the effective date of adoption of this proposed rulemaking.*), an application, application fee and the information required under § 20.21(b), (c) and (d) (relating to application for temporary practice permit, initial licensure and licensure by reciprocity) if applicable, and shall be subject to the provisions of § 20.21(e)—(i).

(b) Existing practitioners shall establish that they have conducted a business and been an active participant in that business which was mainly the practice of massage therapy by submitting one of the following:

(1) A signed copy of the applicant's Federal tax return for the previous year, that lists the applicant's occupation as massage therapist.

(2) A signed copy of Schedule C of the applicant's Federal income tax return for the previous year demonstrating that the individual has reported income from the practice of massage therapy.

(3) Proof of professional or practitioner membership level or above in a professional association approved by the Board.

(4) For applicants who have been employed as massage therapists, a notarized statement from the applicant's employer (on a form provided by the Board) attesting that the individual is a practicing massage therapist, a copy of the employer's business card or letterhead, and a copy of the applicant's Federal W-2 or 1099 form.

(c) Existing practitioners applying for licensure under section 5(b)(3)(i) of the act (63 P.S. § 627.5(b)(3)(i)) shall demonstrate that they have been in active, continuous practice for at least 5 years immediately preceding October 9, 2010, by submitting one of the following:

(1) Signed copies of the applicant's tax returns for the past 5 years, each listing the applicant's occupation as massage therapist.

(2) Copies of Schedule C of the Federal income tax return for the past 5 years demonstrating that the applicant has reported income from the practice of massage therapy.

(3) Proof of at least 5 years membership at the professional or practitioner level or above in a professional association approved by the Board.

(4) For applicants who have been employed as massage therapists, a notarized letter from the applicant's employer (on a form provided by the Board) attesting that the individual has practiced massage therapy for at least the last 5 years, a copy of the employer's business card or letterhead, and copies of the applicant's Federal W-2 or 1099 forms for the last 5 years.

(d) Existing practitioners applying for licensure under section 5(b)(3)(ii) of the act shall have the certification agency provide, directly to the Board, evidence that the practitioner passed a massage

therapy examination that is part of a certification program accredited by the National Commission for Certifying Agencies.

(e) Existing practitioners applying for licensure under section 5(b)(3)(iii) of the act shall request that their educational program provide an official transcript directly to the Board to demonstrate that the practitioner completed at least 500 hours of instruction in massage and related subjects. Transcripts generated in a language other than English shall be translated into English at the applicant's expense by a professional translation service and verified to be complete and accurate.

(f) Existing practitioners applying for licensure under section 5(b)(3)(iv) of the act shall demonstrate, through certificates of completion, official transcript, or correspondence from the practitioner's instructor, that the practitioner completed at least 100 hours of instruction in massage and related subjects and passed the NESL option of the NCBTMB.

(g) Existing practitioners applying for licensure under section 5(b)(3)(v) of the act shall demonstrate, through certificates of completion, official transcript provided directly from educational institution, or correspondence from the practitioner's instructor, that the practitioner completed at least 100 hours of instruction in massage and related subjects and passed the MBLEx.

### Discussion

We feel that the existing practitioner is someone who has been actively practicing. The students who will graduate from their programs on or before the approval and passage of these rules and regulations should also be included. **Graduation from their program is the key phrase.** This helps to ensure that therapist has sufficient skills and that many of the students begin working for employers in the state in the latter portions of their programs. Excluding them would greatly affect business at these establishments and place an undue burden on a student who until this point would have been grandfathered in. Please do not exclude any student who graduates prior to the approval date of the rules and regulations.

Also we need to address those who may have taken a maternity leave or a sick/short term disability leave during the last 5 years. Would they qualify?

The American Massage Therapy Association at one time had 3 different levels that an active massage therapist could join. The Associate Level (ASSC)...ASSC members stopped joining at this level on 11.30.2004. Those who joined at this level were allowed to remain at this level for a total of up to three (3) years, including Student ASSC level. After 3 years the member was required to upgrade to the Professional Level. If they did not meet the requirements to become a professional membership they were not allowed to be a member of AMTA. We would like to see the inclusion of this level of membership in the rules and regulations, such as the following language in section 20.24 section b subsection 3, and section c subsection 3.

Proof of professional or practitioner membership level or above, or an associate membership, not to exceed 3 years plus a minimum of 2 years subsequent professional membership in a professional association approved by the Board.

2. Sections 20.32 and 20.33 regarding online continuing education hours.

**Proposed Regulation:**

**§ 20.32. Continuing education hours, maintenance of certificates of completion.**

- (a) Licensees shall complete a minimum of 24 hours of continuing education in the field of massage therapy as set forth in section 4(6) of the act (63 P. S. § 627.4(6)) and § 20.33 (relating to continuing education content and providers) in the 2-year period immediately preceding the application for license renewal. To be creditable, continuing education must meet the requirements for Board approval set forth in this section and § 20.33.
- (b) Licensees shall complete a minimum of 4 contact hours of continuing education in professional ethics in each biennial renewal period.
- (c) A maximum of 6 hours may be earned to meet the biennial requirement by taking any type of correspondence courses, such as online courses, courses on audio/visual media and print courses.
- (d) Courses for the renewal of the licensee's CPR certification may not be used to meet the biennial continuing education requirement.
- (e) Licensees shall retain the certificates of completion from continuing education courses for a minimum of 5 years.
- (f) A licensee who is unable to complete the required continuing education shall request a waiver or extension from the Board at least 60 days prior to the expiration of the license. The request must include details about the licensee's illness, emergency or hardship, including documentation such as a letter from the licensee's physician or a copy of the licensee's military orders. The Board will respond in writing either granting or denying a request for waiver or extension.
- (g) Licensees may be audited to ensure their compliance with the continuing education requirements

**§ 20.33. Continuing education content and providers.**

- (a) Continuing education must be designed to advance the licensee's professional knowledge and skills related to the practice of massage therapy as defined in section 2 of the act (63 P. S. § 627.2).
- (b) The following continuing education providers are approved to offer creditable continuing education provided they comply with subsections (a), (c) and (d):
  - (1) Schools of massage therapy in this Commonwealth operating under section 5(a)(3) of the act (63 P. S. § 627.5(a)(3)).
  - (2) Schools of massage therapy approved by the Board or accredited by a National accrediting agency recognized by the United States Department of Education.
  - (3) The American Massage Therapy Association and its state chapters.
  - (4) NCBTMB-approved providers.
  - (5) Associated Bodywork and Massage Professionals.

(c) Continuing education providers shall provide certificates of completion to massage therapists that include the name of the massage therapist, name of the course provider, title of the course, date of the course, and number of hours.

(d) Continuing education providers shall retain documentation of the participants in their continuing education programs for at least 5 years.

(e) Providers of continuing education who are not listed in subsection (b) may apply to the Board for approval of a continuing education course by submitting an application and paying the application fee under § 20.3 (relating to fees). The Board will approve only courses that are designed to advance the knowledge and skills of licensees relative to massage therapy as defined in section 2 of the act and that are taught by approved faculty. Approved faculty include massage therapists licensed in the state in which they practice if licensure is required in that state, physical therapists, physicians, professional nurses and chiropractors. Other instructors with demonstrated expertise may be approved on a case-by-case basis.

(f) An LMT may submit a course offered by a continuing education provider not listed in subsection (b) by filing an application with the Board for approval of a continuing education course and paying the application fee set forth in § 20.3. The Board will approve only courses that are designed to advance the knowledge and skills of licensees relative to massage therapy as defined in section 2 of the act and that are taught by approved faculty, as set forth in subsection (e).

(g) The Board reserves the right to reject a continuing education course submitted by a massage therapist who is audited for compliance if the course is outside the scope of practice of massage therapy as defined in the act. A licensee will be notified of the rejection of a course and will be provided the opportunity to apply additional courses the licensee has taken or to take additional courses to meet the continuing education requirement.

## Discussion

We are concerned regarding the number of hours that are allowed to be taken online. The amount of people who are taking correspondence classes has grown dramatically and we should have the number of hours increased to allow more access. We recognize that our work is "hands on" and that is important to continue to have hands on education but the hours of online should be raised. We would like the number increased to 8 hours.

How will the board address those who have disabilities such as deafness who might be practicing massage at this time? They often rely on online education to continue practicing, and some of the sites used may not be previously approved through the listed organizations. Will there be requirements to make accommodations for those who are disabled?

Will working toward a degree in the related fields be approved as continuing education? Some practitioners may take courses in 2 or 4 year schools such as working toward a degree in Kinesiology or other field that is related to massage. While they are taking the classes will it count toward their continuing education credits?

Over all some of our members have expressed concern about the number of continuing education hours, we feel that this is in line with other boards requirements.

3. Section 20.41 Scope of Practice as it would apply to licensees with dual positions.

**Proposed Regulation:**

**20.41. Scope of practice.**

(a) Massage therapists treat the soft tissue manifestations of the human body, which may include the following:

- (1) Pain.
- (2) Edema.
- (3) Hypertonicity.
- (4) Hypotonicity.
- (5) Loss of muscular function.
- (6) Muscle atrophy.
- (7) Muscle cramps or spasms.
- (8) Diminished mobility.
- (9) Adhesions/scarring/scar tissue/fascial thickening.
- (10) Restricted lymph flow.
- (11) Restricted blood flow.
- (12) Fascial restrictions.
- (13) Postural deviations.
- (14) Paresthesia.
- (15) Hypersensitivity.

(b) Massage therapy practice does not include:

- (1) The diagnosis or treatment of impairment, illness, disease or disability.
- (2) Medical procedures.
- (3) Chiropractic manipulation—adjustment.
- (4) Physical therapy mobilization—manual therapy.

(5) Therapeutic exercise.

(6) Ordering or prescribing drugs or treatments for which a license to practice medicine, osteopathic medicine, nursing, podiatry, optometry, chiropractic, physical therapy, occupational therapy, or other healing art is required.

(7) The application of high velocity/low amplitude force further defined as thrust techniques directed toward joint surfaces.

(8) The use of equipment or devices that require a prescription (for example, ultrasound, diathermy or electrical neuromuscular stimulation).

### **Discussion**

Some people hold dual positions within their office. How will this be regulated as to what services they can do and when they can do those services? We know that the cosmetology field only allows esthetics to be done in a separate room from massage therapy. Will a massage therapist be able to perform esthetics and massage in the same room if they hold both licenses. We also have practitioners who work as chiropractic assistants, will they still be able to use the devices such as muscle stimulation units that they have been trained to use? Will they have to perform massage only and not use the stimulation unit?

4. Section 20.42 regarding requiring a licensee to post their license number and home address.

### **Proposed Regulation:**

#### **§ 20.42. Standards of professional conduct.**

(a) A massage therapist shall:

(1) Maintain current knowledge of the application of massage therapy, including indications, contraindications and precautions.

(2) Undertake a specific technique or use a product or equipment only if the massage therapist has the necessary knowledge, training or skill to competently execute the technique.

(3) Base decisions and actions on behalf of a client on sound ethical reasoning and current principles of practice.

- (4) Provide treatment only where there is an expectation that it will be advantageous to the client.
- (5) Refer to an appropriate health care professional when indicated in the interest of the client.
- (6) Discuss with clients which massage therapy modalities and techniques will be utilized and the benefits of these modalities and techniques, the treatment objectives, and that participation is voluntary and that consent to treatment or participation may be withdrawn at any time.
- (7) Obtain written consent prior to performing breast massage.
- (8) Modify or terminate the massage therapy session at any time upon request of the client.
- (9) Keep client information private and confidential. This standard does not prohibit or affect reporting mandated under State or Federal law to protect children, older adults, or others.
- (10) Use safe and functional coverage/draping practices during the practice of massage therapy when the client is disrobed. Safe and functional coverage/draping means that the client's genitals and gluteal cleft and the breast area of female clients are not exposed and that massage or movement of the body does not expose genitals, gluteal cleft or breast area. With voluntary and informed consent of the client, the gluteal and breast drapes may be temporarily moved to perform therapeutic treatment of the area.
- (11) Act to safeguard clients from incompetent, abusive or illegal practices of other massage therapists or caregivers.
- (12) Continuously maintain current CPR certification.
- (13) Be clean, fully-clothed and professional in dress and appearance.
- (14) Display the massage therapist's current license in a location clearly visible to clients and carry the massage therapist's wallet card whenever practicing offsite.
- (15) Include the massage therapist's license number in all advertisements.
- (16) Conspicuously display the massage therapist's name and the title L.M.T. or the words "Licensed Massage Therapist" on an identification badge or directly on clothing worn in the public areas where massage therapy services are being provided.
- (17) Cooperate with the Board, the Department of State or the Bureau of Enforcement and Investigation in the investigation of complaints filed under the act.
- (18) Provide massage therapy records immediately upon demand of the Board or its authorized agents.
- (19) Maintain massage therapy records for at least 3 years from the last date that services were provided to the client.
- (20) Educate clients about maintaining the beneficial effects of massage therapy treatment when indicated by a treatment plan.
- (21) Obtain the written permission of a parent or guardian, or their representative, prior to providing massage therapy services to a minor.



(22) Require that a parent or guardian, or their representative, be physically present in the room during treatment of a minor.

(b) A massage therapist may not:

- (1) Psychologically or physically abuse a client.
- (2) Violate a client's boundaries with regard to exposure, privacy or disclosure.
- (3) Utilize techniques that are contraindicated based on the client's condition.
- (4) Falsify or knowingly make incorrect entries into the client's record or other related documents.
- (5) Intentionally expose a client's genitals, gluteal cleft or the breasts of a female client except temporarily to perform therapeutic treatment of the area.
- (6) Engage in sexual harassment, sexual impropriety, sexual violation or sexual abuse.
- (7) Engage in sexual intimacies during the professional relationship.
- (8) Perform or offer to perform any services for clients other than those connected with giving massage therapy treatments as defined in section 2 of the act (63 P.S. § 627.2), unless the massage therapist has additional training and licensure, if required, to perform those services.
- (9) Knowingly permit another individual to use the massage therapist's license or temporary permit for any purpose.
- (10) Knowingly aid, abet or assist another person to violate or circumvent a law or this chapter.
- (11) Misappropriate equipment, materials, property or money from an employer or client.
- (12) Refuse a client's request for a refund for the unearned portion of prepaid or packaged massage therapy services. This provision does not apply to gift certificate purchases.

### **Discussion**

We are concerned about listing the licensee's home address on documents that would be in plain sight of clients. Many of our members work away from their home and posting their home address might increase their risk to home invasions and personal safety. We also are concerned about the advertising with license number, we understand the need to show proof of licensure, but will a massage therapist who works for a spa have to have the therapists number posted in the spa's advertisement and how would a spa with multiple therapists be required to post each therapists number in the advertising?