

<h1 style="margin: 0;">Regulatory Analysis Form</h1> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;">(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p style="font-size: 1.5em; margin: 0;">RECEIVED</p> <p style="margin: 0;">OCT 10 2018</p> <p style="font-size: 0.8em; margin: 0;">Independent Regulatory Review Commission</p> </div>
<p>(1) Agency: Department of State, Bureau of Professional and Occupational Affairs</p>		<p>IRRC Number: 3203</p>
<p>(2) Agency Number: 16A Identification Number: 724</p>		
<p>(3) PA Code Cite: 49 Pa. Code § 20.3</p>		
<p>(4) Short Title: Fees</p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Thomas M. Davis, Counsel, State Board of Massage Therapy, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) tmdavis@pa.gov.</p> <p>Secondary Contact: Cynthia Montgomery, Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) cymontgome@pa.gov.</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> PROPOSED REGULATION</p> <p><input checked="" type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The final-form rulemaking amends § 20.3 (relating to fees) to increase the application fee from \$65 to \$100; the fee for approval of a continuing education program from \$65 to \$100; and the biennial renewal fee from \$75 to \$125 for FY 18-19, to \$150 for FY 20-21, and to \$175 for FY 22-23 and thereafter. It also removes § 20.3(d) because the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) no longer provides licensure examinations. Effective February 1, 2015, only the Federation of State Massage Therapy Boards administers the exam (MBLEx) currently referenced in § 20.3(c).</p>		
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>Section 11(a) of the Massage Therapy Law (act) (63 P.S. § 627.11(a)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties imposed under the act are not sufficient to meet expenditures over a 2-year period.</p>		

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

As noted above, the regulation is mandated by section 11(a) of the Massage Therapy Law (act) (63 P.S. § 627.11(a)).

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

As detailed in the Preamble, under section 11(a) of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board shall increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees, fines and civil penalties.

Under section 49 of the act (63 P.S. § 627.49), initial operating funds were transferred from the Professional Licensure Augmentation Account (PLAA) to the Board to be repaid to the PLAA within 3 years of the beginning of the issuance of licenses. The current fee schedule in § 20.3 (relating to fees) was established with the Board's initial rulemaking in 2011 based upon an estimate of the costs of administering the functions of the Board at that time. See, 41 Pa.B. 16 (January 1, 2011). However, since the Board began issuing licenses in 2011, it has not produced enough revenue to cover its current operating expenses or remain unindebted to the PLAA. In fact, the accumulated deficit stands at \$1,571,455.03, as of September 18, 2018.

Therefore, the Board determined that it was necessary to raise fees to meet or exceed projected expenditures, in compliance with section 11(a) of the act. The final-form rulemaking amends § 20.3 to increase the application fee for initial licensure from \$65 to \$100; to increase the fee for approval of a continuing education program application from \$65 to \$100; and to increase the biennial renewal fee from \$75 to \$125 for FY 18-19, to \$150 for FY 20-21, and to \$175 for FY 22-23 and thereafter. The increased application fees will be effective immediately upon publication of the final-form rulemaking. The increased biennial renewal fees will go into effect beginning with the January 31, 2019, biennial renewal. The proposed new fees will enable the Board to avoid the mounting deficits, repay the PLAA and meet its subsequent estimated expenditures for a number of years to come.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards applicable to the subject matter of the regulation.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This regulation will not adversely affect Pennsylvania's ability to compete with other states.

In Delaware, the fees are as follows for certified massage technicians and licensed massage therapists, \$134; to upgrade from an active certified massage technician to a licensed massage therapist, \$55; and a temporary massage technician is \$55. At the time of renewal, the licensees are notified of the amount of the renewal fee at that time. The current renewal fee is \$134. All renewals, including the renewal of inactive licenses, require payment of a renewal fee.

In Maryland, the fees are as follows: the application fee is \$150; licensure fee is \$200; the state examination fee is \$100; the re-examination fee is \$275; the biennial renewal fee is \$250; late renewal fee (within 30 days of Certificate expiration, in addition to the renewal fee) is \$200; reinstatement fee (after 31 days of expiration of Certificate or Registration, in addition to the renewal and late fees) is \$200; inactive renewal fee is \$50; and the reactivation fee is \$100.

In New Jersey, the following fees shall be charged by the Board: application fee of \$75; initial license fee, if paid during the first year of a biennial renewal period, is \$120 or if paid during the second year of a biennial renewal period is \$60; renewal of license is \$120; late license renewal fee is \$50 plus the applicable biennial license renewal fee; reinstatement fee is \$100 plus the applicable biennial license renewal fee; and an inactive license fee is \$60.

In New York, at the beginning of each registration period, a mandatory continuing education fee of \$45 shall be collected from licensees engaged in the practice of massage therapy in New York State, except for those exempt. This fee shall be in addition to the any applicable registration fees required. Licensees applying for a conditional registration, shall pay a fee that is the same as and in addition to, any applicable fee for the triennial registration required. In addition, such licensees shall pay a \$45 mandatory continuing education fee. The fee for licensure and first registration is \$108. The fee for a limited permit is \$35. New York has a triennial renewal fee of \$103.

In Ohio, the fee for the application is \$153.50. Fees submitted are neither refundable nor transferable. The fee must be submitted with the application before the review process will begin, which is typically ten to twelve weeks. Each person seeking to renew a certificate to practice a limited branch of medicine shall apply for biennial registration with the state medical board on a renewal application form prescribed by the board. An applicant for renewal shall pay a biennial registration fee of \$100.

In Virginia, the fees required by the board are: applications and initial certifications are \$140; biennial renewals are \$95; late renewals are \$30; reinstatements of certifications are \$150; and reinstatement after suspensions or revocations are \$200.

In West Virginia, the fees established by the Board are as follows: the application fee is \$50, which is a non-refundable fee to be paid by all applicants for a massage therapy license including those seeking to re-apply for a license. Two-year license fee is \$300 and is paid at the time of application for initial or reciprocal licenses. This fee does not include the \$50 application fee. This fee is non-refundable after issuance of a license. Two-year licensure renewal fee is \$125 and is paid prior to the issuance of the license. This fee must be received by the end of the month before the license expires. This fee is non-refundable after issuance of license. A late fee of \$50 is a non-refundable

fee to be paid when a licensee fails to submit an application and/or fees on or before the date the license expires. This is in addition to the other required fees. Re-application fee is \$350 and is a fee to be paid when re-applying for licensure after the license lapsed sixty days after the expiration date of the license.

In Maine, an applicant must pay a total of \$86 to apply for licensure as a massage therapist, which includes both an application fee and the initial license fee. The license renews annually for \$40 (or \$80 biennially). A late fee of \$50 is assessed for licenses renewed after their expiration date.

In Massachusetts, an applicant pays \$225 for initial licensure, and an annual renewal fee of \$150 (or \$300 biennially). Massachusetts has a late renewal fee of \$57. In New Hampshire, the initial licensing fee is \$110, as is the biennial renewal fee. In Rhode Island, the initial license fee is \$65, while renewal is \$130 biennially. Finally, in Connecticut, the application fee for initial licensure is \$379.75. Biennial renewal is \$255 in Connecticut.

Based on these laws, statutes and regulations/fees from other states, the Board believes that this regulation will not place Pennsylvania at a competitive disadvantage.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed regulation should have no impact on any other regulations of the Board, the Bureau, the Department or any other state agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Board began discussing the fee regulations at public meetings during 2014 and 2015. Discussions began at the June 3, 2014, Board meeting, when representatives from the Department of State's Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for fiscal years 2008-2009 through fiscal years 2013-2014, and projected revenue and expenses through fiscal year 2025-2026, and discussed various options for the Board's consideration to balance its budget and to repay the PLAA. BFO returned on October 17, 2014, with updated projections that it discussed with the Board. At that time, the Board assigned the matter to its Regulations Committee, which then presented the proposed fee structure to the Board at its public meeting on December 1, 2014. At that time, the Board directed its Regulatory Counsel to draft the proposed rulemaking based on the Committee's recommended fee structure. All of these meetings were open to the public and were attended by representatives of the regulated community.

On February 24, 2015, the Board sent an exposure draft in accordance with Executive Order 1996-1 to interested parties and stakeholders who have identified an interest in the Board's regulatory agenda (listed on Attachment A). The Board received only two comments, which it reviewed at its next scheduled meeting on April 7, 2015. At this meeting the Board approved the proposed rulemaking and directed Counsel to submit the proposed rulemaking through the regulatory review process.

After review by the Office of General Counsel, the Governor's Office of Policy and Planning, the Governor's Budget Office and the Office of Attorney General, the Proposed rulemaking was published in the Pennsylvania Bulletin on June 23, 2018. During the 30-day public comment period, the Board received 413 comments from the regulated community and interested parties (see Attachment A), which the Board reviewed at its public meeting on August 7, 2018. On August 22, 2018, the Board received comments from the Independent Regulatory Review Commission. Based on its review of the public comments and the comments from IRRC, the Board asked BFO to attend the September 18, 2018, meeting and provide a revised recommendation that would recoup the Board's accumulated deficit over a period of 10-years and to phase in the increases to permit licensees an opportunity to budget in advance, rather than be surprised by a large increase. At its September 18, 2018, meeting, the Board adopted the revised final rulemaking and directed its Counsel to promulgate the final rulemaking.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The proposed rulemaking would apply to all licensees of the Board and all applicants for licensure. It would also apply to continuing education providers who are not preapproved and must apply for approval of their continuing education courses. There are approximately 9,176 actively licensed massage therapists in the Commonwealth. In addition, the Board receives approximately 1,000 applications for licensure annually. The vast majority of continuing education for massage therapists is provided by preapproved providers. During the 2015-2017 biennial cycle, only 18 non-preapproved continuing education course providers applied for approval. At the present time, there are only six (6) courses for continuing education approved by the Board that are not offered by preapproved providers.

According to the Pennsylvania Department of Labor and Industry in 2017, most massage therapists (42.9%) are self-employed, 18.1% work in offices of other health practitioners, 3.7% work in traveler accommodation, and 1.7% work in other amusement and recreation industries. A few massage therapists work in department stores, management and technical consulting services, other professional, scientific, and technical services, junior colleges, offices of physicians, and home health care services.

For the business entities listed above, small businesses are defined in Section 3 of Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's (SBA) Small Business Size Regulations under 13 CFR Ch. 1 Part 121. Specifically, the SBA has established these size standards at 13 CFR § 121.201 for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where massage therapists work, obviously those licensees who are self-employed are small businesses. Small businesses in the categories all other miscellaneous health practitioners, all other amusement and recreation industries, and traveler accommodation are ones with \$7.5 million or less in average annual receipts. A small business in consulting services are those with \$15.0 million or less in average annual receipts. For junior colleges, the annual threshold is \$20.5 million or less. The NAICS thresholds for offices of physicians is \$11 million or less annually. In considering all of these small business thresholds set by NAICS for the businesses in which massage therapists work, it is probable that most of the licensed massage therapists work in small businesses.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Approximately 9,176 licensees will be required to comply with this regulation. Some employers may pay the renewal fees for their employees. As noted above, only CE providers that are not pre-approved will be affected by the CE program approval fee. During the 2015-2017 biennial cycle, only 18 CE course providers applied for approval. At the present time, there are only six (6) Board-approved CE programs that are not provided by pre-approved providers.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Approximately 9,176 licensees will be required to comply with this regulation by paying an additional \$50 for FY 18-19, an additional increase of \$25 for FY 20-21, and an additional increase of \$25 for FY 22-23 and thereafter to renew their licenses biennially. The Board also estimates that approximately 1,000 applicants each year will be required to pay an additional \$35 to apply for licensure. As noted above, only CE providers that are not pre-approved will be affected by the \$35 increase to the CE program approval fee. The increase in fees is necessary to ensure the fiscal integrity of the Board and to ensure that the Board's mandate to license individuals will continue to protect the health, safety and welfare of the public.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Section 11(a) of the Massage Therapy Law (act) (63 P.S. § 627.11(a)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties imposed under the act are not sufficient to meet expenditures over a 2-year period. The cost to licensees, which equates to an additional \$25 per year for the biennial period of 2019-2021, an additional \$12.50 per year for the biennial period of 2021-2023, and an additional \$12.50 per year for the biennial period of 2023-25 for licensed massage therapists and an additional one-time increase of \$35 for applicants for licensure and continuing education approval is outweighed by the Board's duty to issue licenses to qualified applicants and regulate the massage therapy profession to protect the health, safety and welfare of the public.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Beginning with the January 31, 2019, biennial renewals, all licensed massage therapists that renew their licenses will be required to pay an additional \$50. Therefore, the regulated community will incur increased costs calculated as follows: 9,176 licensed massage therapists x \$50 increase = \$458,800 in FY 18-19; 9,127 licensed massage therapists x \$75 increase (as compared to the current fee) = \$688,200 for FY 20-21; and 9,176 licensed massage therapists x \$100 increase = \$917,600 for FY 22-23 and thereafter, unless changed by the Board.

There are currently approximately 1,000 initial applicants annually who will have to pay \$35 more to obtain an initial license. $1,000 \times \$35 = \$35,000$.

During the 2015-2017 biennial cycle, 18 CE course providers applied for approval of their continuing education programs. Assuming a consistent number of entities will apply each biennial cycle, $18 \times \$35 = \630 or approximately \$315 per year.

Thus the total increase in costs to the regulated community (including licensees, applicants and CE course providers) for all three fee increases will be \$35,315 in FY 19-20, 21-22 and 23-24 and thereafter (non-renewal years) and \$494,115 in FY 18-19; \$723,515 in FY 20-21; and \$952,915 in FY 22-23 (renewal years), and thereafter, unless changed by the Board. The Board is committed to reassessing the biennial renewal fee when the deficits are eliminated, currently projected to occur after the 2027 renewal.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation would not result in costs or savings to local government.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Board will not incur an increase in administrative costs by implementing the rulemaking. Indeed, the regulatory amendment will permit the Board to recoup the costs of its operations. There are no other costs or saving to state government associated with compliance with the proposed rulemaking.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This proposed rulemaking would not require any additional recordkeeping or other paperwork.

(22a) Are forms required for implementation of the regulation? **Yes.**

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

The Board has attached the forms required for implementation of the regulation. (See Attachment C)

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY FY 18-19	FY +1 FY 19-20	FY +2 FY 20-21	FY +3 FY 21-22	FY +4 FY 22-23	FY +5 FY 23-24
SAVINGS:						
Regulated Community						
Local Government						
State Government						
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$494,115	\$35,315	\$723,515	\$35,315	\$952,915	\$35,815
Local Government						
State Government						
Total Costs	\$494,115	\$35,315	\$723,515	\$35,315	\$952,915	\$35,815
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 FY 15-16 (Actual)	FY -2 FY 16-17 (Actual)	FY -1 FY 17-18 (Projected)	Current FY FY 18-19 (Budgeted)
State Board of Massage Therapy	\$635,539.01	\$647,796.71	\$592,000	\$667,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

- (a) **Because the Board only regulates individual massage therapists and not the business entities where they may practice, the Board does not have the means to estimate precisely the number of small businesses subject to the regulation. However, the Board believes that the majority of its licensees either are, or are employed by small businesses. Therefore, approximately 9,000 small businesses may be impacted by the regulation.**
- (b) **There are no projected reporting, or recordkeeping costs required for compliance. There are no additional administrative costs required for compliance. The administrative costs would be those associated with filling out the biennial renewal form or online renewal application and either writing a check or processing the payment of the fee. These costs would be the same regardless of the increase in the fee. Also, these fees can be avoided by the small businesses who employ massage therapists by requiring employees to pay their own biennial renewal fees. Obviously, those massage therapists who are self-employed (42.9%) cannot avoid these costs.**
- (c) **The regulation will affect small businesses that are run by self-employed massage therapists and may affect other small businesses to the extent that an employer pays the renewal fees of the licensees practicing in their facility.**
- (d) **The current proposal is the least intrusive or costly method of enabling the Board to avoid its mounting deficits, repay the PLAA over the next 10 years and meet its subsequent estimated expenditures for a number of years to come.**

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The Board has perceived no special needs of any subset of its applicants or licenses for whom special accommodations should be made.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The Board carefully considered reports and recommendations from the Department's Bureau of Finance and Operations (BFO) in developing this proposed rulemaking. In October of 2014, BFO recommended a fee increase to \$290 for the biennial renewal fee based on the estimated impact of Act 136 of 2014. However, the Board elected to wait to ascertain the actual impact of the increased regulation of massage therapists who practice in cosmetology salons before making such a dramatic increase. The original \$200 proposal would have eliminated the deficit over 2 biennial renewal periods. However, the revised proposal provides a graduated increase over the next three biennial renewal periods, and is designed to eliminate the accumulated deficit over a period of 10 years. The Board believes that the fee schedule being proposed is the least burdensome acceptable alternative that will cover the Board's current operational expenses, allow the Board to repay the costs advanced by the PLAA, and be financially sound for a number of years to come.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
 - b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
 - c) The consolidation or simplification of compliance or reporting requirements for small businesses;
 - d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
 - e) The exemption of small businesses from all or any part of the requirements contained in the regulation.
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- a) **All licenses renew biennially. The Board did not consider less stringent reporting requirements or deadlines for small businesses or for licensees that work for small businesses.**
 - b) **All licenses renew biennially. The Board did not consider less stringent reporting requirements or deadlines for small businesses or for licensees that work for small businesses.**
 - c) **There are no compliance or reporting requirements that could be consolidated or simplified.**
 - d) **The regulation does not contain design or operational standards.**
 - e) **There is no exemption for small businesses or licensees that work for small businesses. Because the majority of the Board's licensees either are, or work for, small businesses, such an exemption would frustrate the intent of the regulation and leave the Board in its current financial condition.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is based upon financial reports made by the Department of State's Bureau of Finance and Operations. This proposed rulemaking is not based upon any scientific data, studies, or references.

(29) Include a schedule for review of the regulation including:

A. The length of the public comment period: **Within 30 days of publication as proposed rulemaking.**

B. The date or dates on which public meetings or hearings will be held: **No public hearings are contemplated, however the Board meets in regular public meetings six times a year, at which time its regulatory matters are considered.**

C. The expected date of delivery of the final-form regulation: **No later than October 15, 2018.**

D. The expected effective date of the final-form regulation: **Upon publication of the final-form rulemaking – anticipated late November or early December of 2018.**

E. The expected date by which compliance with the final-form regulation will be required: **The increased application fees will be effective upon publication of the final-form rulemaking; the increased biennial renewal fees will go into effect with the renewal cycle commencing in 2019.**

F. The expected date by which required permits, licenses or other approvals must be obtained:
N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally six times a year. In 2018, the Board is scheduled to meet on the following remaining date: December 4, 2018. The 2019 meeting dates are: February 5, April 9, June 11, August 13, September 17 and December 3, 2019. More information can be found on the Bureau's website (www.dos.pa.gov). Additionally, the Department of State, Bureau of Finance and Operations, makes annual financial reports to the Board.

ATTACHMENT B

1. Fee Report Form – Application Fee—Massage Therapy License
2. Fee Report Form – Biennial Renewal Fee—Massage Therapy
3. Fee Report Form – Application for approval of Continuing Education Program

FEE REPORT FORM

Agency: State - BPOA

Date: April 16, 2015

Contact: Ian J. Harlow, Acting Commissioner
Bureau of Professional and Occupational Affairs

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Application Fee – Massage Therapy License: \$100.00

Estimated Revenue: \$200,000.00 (2,000 applications x \$100.00)

Fee Description:

The fee will be charged to each applicant for a Massage Therapy license.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Massage Therapy to process an application and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- review and process application	(.50 hr)	\$20.91
Attorney review	(.50 hr)	\$34.45
Board Meeting review	(.50 hr)	\$4.00
Administrative Overhead:		<u>\$36.16</u>
	Total Estimated Cost:	\$95.52
	Proposed Fee:	\$100.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$100.00 be established for the review and issuance of a Massage Therapy license.

Board Staff: receives application and reviews for completeness. Board staff reviews the applications and verifies all supporting documentation, including the applicant's education and exam results received from third parties. Applicant may be contacted if information is missing. Information provided regarding criminal conviction/chemical dependency may necessitate further research and review. Once a review is complete, if that review raises further questions or potential problems, the application is presented at the next Board meeting for final review by the Board members. Time to cover review by the legal office/Board members has been averaged over the total number of applications anticipated in a biennial cycle. Board staff issues the license through the licensing system when complete.

FEE REPORT FORM

Agency: State - BPOA

Date: September 21, 2018

Contact: Ian J. Harlow, Acting Commissioner
Bureau of Professional & Occupational Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Biennial Renewal Fee-Massage Therapy:

Renewal fee for the 2019-2021 biennial period **\$125**

Estimate Biennial Revenue: \$ 1,125,000 (9,000 applications x \$125)

Renewal fee for the 2021-2023 biennial period **\$150**

Estimated Biennial Revenue: \$ 1,350,000 (9,000 applications x \$150)

Renewal fee for the 2023-2025 biennial period (and thereafter, unless changed by the Board) **\$175**

Estimated Biennial Revenue: \$ 1,575,000 (9,000 applications x \$175)

Fee Description:

The fee will be charged biennially to every Massage Therapist for renewal of their license beginning with the January 31, 2019 renewal.

Fee Objective:

The fee should defray a portion of the general operation costs of the State Board of Massage Therapy.

Analysis, Comment, and Recommendation:

Current biennial revenue: \$ 925,200

Current estimated biennial expenditures: \$1,303,600

Biennial deficit (\$ 378,400)

The biennial renewal fee imposed upon current licensees is expected to produce enough revenue to fund the Board's investigation, enforcement, legal and administrative costs that are not funded through fees associated with applications and other unpredictable revenue such as revenues produced through the payment of civil penalties.

It is recommended that a graduated fee increase from \$75 to \$175 over the next three biennial renewal periods be established to support the general operational costs of the State Board of Massage Therapy. These graduated increases should produce sufficient revenues to cover operational needs, repay the monies advanced from the PLAA and eliminate the accumulated deficit by fiscal year 2027-28.

FEE REPORT FORM

Agency: State - BPOA

Date: April 16, 2015

Contact: Ian J. Harlow, Acting Commissioner
Bureau of Professional and Occupational Affairs

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Massage Therapy

Application for approval of Continuing Education Program - \$100.00

Estimated Revenue: \$10,000.00 (100 applications x \$100.00)

Fee Description:

The fee will be charged to every applicant for approval of a Continuing Education Program.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Massage Therapy to review and process an application for approval of a Continuing Education Program and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- review and process application	(.5 hr)	\$20.91
Board Administrator - review	(.5 hr)	\$23.10
Board Member review	(1 hr)	\$8.00
Board Meeting review	(1 hr)	\$8.00
Administrative Overhead:		<u>\$36.16</u>
	Total Estimated Cost:	\$96.17
	Proposed Fee:	\$100.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$100.00 be established for the review and issuance of an application for approval of a continuing education program.

Board Staff: receives application and reviews for completeness. Verification is made that all supporting documentation is attached. The applicant may be contacted if information is missing. Once the staff reviews the application and determines that it is complete, the application is sent to the Board members who are on the Continuing Education (CE) Committee to review the content material. Once the CE Committee reviews the application, if there are questions, then the application goes before the full Board for its review and discussion. Time to cover review by board members has been averaged over the total number of applications anticipated in a biennial cycle.

ATTACHMENT C

1. Massage Therapist Licensure By Examination
2. Massage Therapist Licensure by Reciprocity
3. Massage Therapist Renewal Application
4. Application for Continuing Education Course Approval
5. Application to Conduct an Education Conference

State Board of Massage Therapy

Phone: 717-783-7155
Fax: 717-787-7769
Email: RA-massage@pa.gov

P. O. Box 2649
Harrisburg, PA. 17105-2649
www.dos.pa.gov/massage/therapy

Courier Delivery Address:
2601 North Third Street
Harrisburg, PA. 17110

MASSAGE THERAPIST LICENSURE BY EXAMINATION

Application Instructions:

All licenses expire on January 31, of odd-numbered years, regardless of the date of issue. You may not practice massage therapy unless you hold a current license. You may renew your license beginning 60 days before your current license expiration date.

CHECKLIST FOR APPLICANTS FOR LICENSURE BY EXAMINATION

- _____ Complete ALL applicant sections by typing/printing in blue/black ink), sign and date the application. Failure to complete ALL sections may delay the processing of your application.

- _____ Enclose a check or money order in the amount of \$100.00. The check or money order should be made payable to the Commonwealth of Pennsylvania. **THE FEE IS NOT REFUNDABLE**. If all materials in support of your application are not received within 6 months of the date of your signature on the application, your application will not be processed and you will have to submit another application form and fee if you still wish to obtain a license.

- _____ Attach a copy of a legal form of identification, such as a driver's license, a current passport, or a valid state identification card. The copy should be submitted on an 8 ½ x 11 sheet of paper.

- _____ An official Criminal History Record Check (CHRC) from the state agency for every state in which you have resided for the past 5 years. The report(s) must be dated within 6 months of the date of your application for licensure by examination. This report can be sent to you and forwarded to the Board with your application. For Pennsylvania CHRC, this can be done online at <http://epatch.state.pa.us>. **For states that do not provide CHRC for employment or licensing purposes (CA & AZ)**, we will accept an FBI background check. Please go to <https://www.fbi.gov/about-us/cjis/identity-history-summary-checks> and obtain your Federal Bureau of Investigation (FBI) Identity History Summary Check.

If you have a criminal record,
 - a. Attach certified court documents related to the conviction(s), and
 - b. A personal statement explaining the conviction(s) and what you have done since the conviction(s) that demonstrates that you are rehabilitated.

- _____ *Effective July 1, 2016*, provide a Self-Query from the National Practitioner Data Bank completed within 6 months of submission of this application to the Board. A Self-Query can be requested online at <https://www.npdb.hrsa.gov/>. When you receive the "Self-Query Response" from the National Practitioner Data Bank, forward it to the Board office. (Verify that "Self-Query Response" is sent to the Board and not a discrepancy notice.)

- _____ Attach a copy of the front & back of your current Adult Basic CPR certification, including the expiration date of your CPR certification. CPR certification must be valid for at least 6 months following the date of signature of the application. Your card must be signed and if applicable, a copy of the legend must be included. The copy should be submitted on an 8 ½ x 11 sheet of paper. **Online CPR is not acceptable.**

Complete the top section of the "Verification of Massage Therapy Education" form (pages 3-4) and give the form to the Dean, Registrar or Chairperson of your Massage Therapy Program. The school must complete the bottom section and **attach a copy of your transcript**. A qualifying program must be a minimum of 600 hours. **The school seal MUST be affixed where indicated and the ORIGINAL form returned by the school directly to the Board office in an official school envelope.** The form must be completed **AFTER** you have received your certificate or degree; program completion may NOT be anticipated. Out-of-state schools will be required to submit a copy of their school's certificate of accreditation or certificate of approval from the Department of Education with the form.

You must request either the Federation of State Massage Therapy Boards (FSMTB), PO Box 198748, Nashville TN 37219 (1-866-962-3926) or the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB, 1901 S Meyers Road, Suite 240, Oakbrook Terrace, IL 60181 (1-800-296-0664), to have your exam scores released to the Board. This information must come directly from the testing agency to the Board. Please note, as of February 2015, NCBTMB discontinued offering the licensure exam and the Board will only recognize the Massage and Bodywork Licensure Examination (MBLEx) offered by FSMTB.

Request the appropriate licensing agency in each state in which you now hold or ever held (active or inactive, current or expired) **ANY HEALTH-RELATED PROFESSIONAL LICENSE** to forward a "Letter of Good Standing" directly to the Board office in a sealed official state board envelope.

The Bureau of Professional and Occupational Affairs (BPOA), in conjunction with the Department of Human Services (DHS), is providing notice to all health-related licensees and funeral directors that are considered "mandatory reporters" under section 6311 of the Child Protective Services Law (CPSL) (23 P.S. § 6311), as amended, that EFFECTIVE JANUARY 1, 2015, all persons applying for issuance of an initial license shall be required to complete 3 hours of DHS-approved training in child abuse recognition and reporting requirements as a condition of licensure. Please review the Board website for further information on approved CE providers. Once you have completed a course, the approved provider will electronically submit your name, date of attendance, etc., to the Board. Child Abuse Continuing Education Providers Information can be at <http://www.dos.pa.gov>.

NAME OR ADDRESS CHANGE:

If the name you are currently using on your application is different than the name you used on any of the other documents required to be submitted with your application, or if you change your name after you submit this application, send evidence of your name change within ten (10) days. For example, send a copy of marriage certificate or court order authorizing the name change.

If your address changes after you have submitted your application, notify the Board office in writing of your name, old address and new address. Mail this information to the Board office at the address shown above within ten (10) days.

OTHER INFORMATION:

If a pending application is older than six months from the date of signature and the applicant wishes to continue the application process, the Board shall require the applicant to submit a new application including the required fee. Many of the supporting documents associated with the application also cannot be more than six months from the date of issuance/signature.

Maintain a copy of all documents sent to the Board. Send your application materials to the Board at: State Board of Massage Therapy, PO Box 2649, Harrisburg, PA 17105-2649 OR (for courier delivery) 2601 North Third St, Harrisburg, PA 17110.

You may view the Massage Therapy Law and the regulations of the Board online at www.dos.pa.gov/massagetherapy.

- 1 Have you ever taken the National Certification Examination for Therapeutic Massage (NCETM), the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) or the Massage and Bodywork Licensure Examination (MBLEx)? If yes, give the exam MONTH and YEAR and to which STATE the results were reported.
 MBLEx Date: ___/___/___ State: ___ NCETMB Date: ___/___/___ State: ___
 NCETM Date: ___/___/___ State: ___
- 2 As required by Section 5(a)(2) of the Massage Therapy Law, have you earned a high school diploma or equivalent? Yes No
- 3 Have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline? Yes No
- 4 Do you currently have any disciplinary charges pending against your professional or occupational license certificate, permit or registration in any state or jurisdiction? Yes No
- 5 Have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction? Yes No
- 6 Have you been convicted (found guilty, pled guilty or pled nolo contendere), received probation without verdict or accelerated rehabilitative disposition (ARD) as to any criminal charges, felony or misdemeanor, including any drug law violations? NOTE: You are not required to disclose any ARD or other criminal matter that has been expunged by order of a court. Yes No
- 7 Do you currently have any criminal charges pending and unresolved in any state or jurisdiction? Yes No
- 8 Do you currently engage in or have you ever engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination? Yes No
- 9 Have you ever had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority? Yes No
- 10 Have you ever had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility? Yes No
- 11 Do you hold, or have you ever held, a license, certificate, permit, registration or other authorization to practice ANY health-related profession in any state or jurisdiction? If you answered YES to the above question, please provide the profession and state or jurisdiction. (THIS INCLUDES A PENNSYLVANIA TEMPORARY PRACTICE PERMIT) Yes No

PROFESSION (DO NOT ABBREVIATE)	STATE

You must request that a Letter of Good Standing be sent from each state board office directly to the Board office in a sealed official envelope of that state board.

- 12 Will any documentation submitted in connection with this application be received in a name other than the name under which you are applying? If you selected "yes", please list the name or names. Submit a copy of the legal document indicating the name change (i.e., marriage certificate, divorce decree which indicates the retaking of your maiden name; legal document indicating the retaking of a maiden name, or court order). Yes No

IF YOU ANSWERED YES TO ANY OF THE CRIMINAL/DISCIPLINARY ACTION QUESTION(S), PLEASE ATTACH AN 8 1/2 X 11 SHEET OF PAPER GIVING FULL DETAILS. INCLUDE COURTHOUSE CERTIFIED COPIES OF DOCUMENTS EXPLAINING SITUATION, IF APPLICABLE.

VERIFICATION

NOTICE: Disclosing your Social Security Number on this application is mandatory in order for the State Boards to comply with the requirements of the Federal Social Security Act pertaining to Child Support Enforcement, as implemented in the Commonwealth of Pennsylvania at 23 Pa.C.S. § 4304.1(a). At the request of the Department of Human Services (DHS), the licensing board must provide to DHS information prescribed by DHS about the licensee, including the social security number. In addition, Social Security Numbers are required in order for the Board to comply with the reporting requirements of the U.S. Department of Health and Human Services, National Practitioner Data Bank.

I verify that I have read and am familiar with the provisions of the Pennsylvania Massage Therapy Law and regulations of the State Board of Massage Therapy (www.dos.pa.gov/massage/therapy).

I verify that this application is in the original format as supplied by the Department of State and has not been altered or otherwise modified in any way. I am aware of the criminal penalties for tampering with public records or information pursuant to 18 Pa.C.S. § 4911.

I verify that the statements in this application are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa. C.S. Section 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation or denial of my license, certificate, permit or registration.

Printed Name of Applicant

Signature of Applicant

Date

State Board of Massage Therapy

Mailing Address: PO Box 2649 Harrisburg, PA. 17110 Phone: 717-783-7155

Courier Delivery Address: 2601 North Third Street Harrisburg, PA. 17110 Email: RA-massagetherapy@pa.gov

VERIFICATION OF MASSAGE THERAPY EDUCATION

Applicant: Complete (by typing/printing in blue/black ink) top section and send the 2 page form to your Massage Therapy program to complete and attach your transcripts. FAILURE TO COMPLETE ALL SECTIONS MAY DELAY THE PROCESSING OF THE APPLICATION.

NAME Last First Middle Maiden/Other name used

ADDRESS Street City State Zip Code

SOCIAL SECURITY # BIRTHDATE

This section to be completed by the Dean, Registrar, or Chairperson of the Massage Therapy program at the United States school which the applicant COMPLETED. DO NOT complete this form in anticipation of program completion. FAILURE TO COMPLETE ALL SECTIONS MAY DELAY THE PROCESSING OF THE APPLICATION.

I hereby certify that:

1) successfully completed a Massage Therapy Program at on (Name of Applicant) (School name) (Date)

2) The curriculum completed by Applicant equals or exceeds the curriculum requirements set forth in 49 Pa. Code § 20.11. Hours completed

Provide the number of hours for each area:

Hours At least 175 contact hours of instruction in anatomy & physiology, kinesiology & pathology, including training in the human immunodeficiency virus & related risks.

Hours At least 250 contact hours of massage therapy & bodywork assessment, theory & practice including sanitation, safety, & hygiene.

Hours At least 25 contact hours of professional ethics, and business & law related to a massage therapy business.

Hours At least 150 contact hours of related courses appropriate to a massage therapy curriculum as set forth in Section 20.13 (related to required knowledge base), including cardiopulmonary resuscitation.

Name of applicant: _____

3) The school is:

- A Pennsylvania Private Licensed School
- Operated within a regionally accredited College or University

Name of College or University: _____

Accredited by: _____

- Approved by the MT Board or Department of Education of _____
(State)

Printed name of Dean/Registrar/Chairperson of M. T. Program

Signature

(Date)

Name of Program _____

SCHOOL
SEAL

Name of Controlling Institution _____

Address _____

**OUT-OF-STATE SCHOOLS - PLEASE ATTACH A COPY OF THE SCHOOL
CERTIFICATE OF ACCREDITATION OR CERTIFICATE OF APPROVAL
FROM THE DEPARTMENT OF EDUCATION FOR THE TIMEFRAME THE
STUDENT ATTENDED THE MASSAGE THERAPY PROGRAM**

**SCHOOL SHALL RETURN AN ORIGINAL COMPLETED FORM DIRECTLY TO BOARD OFFICE IN AN
OFFICIAL SCHOOL ENVELOPE AND ATTACH STUDENT TRANSCRIPTS. (DO NOT send a copy of
this form or return this form in an envelope provided by the applicant.)**

**Official school envelopes must have the school return address printed on the envelope, we will not
accept stamped return addresses or printed labels with a return address.**

State Board of Massage Therapy

Phone: 717-783-7155
Fax: 717-787-7769
Email: RA-massagetherapy@pa.gov

P. O. Box 2649
Harrisburg, PA. 17105-2649
www.dos.pa.gov/massage/therapy

Courier Delivery Address:
2601 North Third Street
Harrisburg, PA. 17110

MASSAGE THERAPIST LICENSURE BY RECIPROCITY

Application Instructions:

USE THIS APPLICATION ONLY IF:

- a. You hold a current, active license/certification as a massage therapist in another state.
- b. You have completed a Massage Therapy Program of at least 600 contact hours of in-class, postsecondary education instruction at a school recognized by the other state's licensing authority, accredited by a National accrediting organization, or authorized to operate by the jurisdiction's Department of Education. (Applicants who completed a Massage Therapy Program with only 500 contact hours of in-class, postsecondary education, as described in section (b) above, may submit for the Board's review evidence of 100 additional contact hours of in-class massage therapy instruction and/or continuing education.)
- c. You have taken one of the Board approved examinations.

All licenses expire on January 31, of odd-numbered years, regardless of the date of issue. You may not practice massage therapy unless you hold a current license. You may renew your license beginning 60 days before your current license expiration date.

CHECKLIST FOR APPLICANTS FOR LICENSURE BY RECIPROCITY

_____ Complete ALL applicant sections by typing/printing in blue/black ink), sign and date the application. Failure to complete ALL sections may delay the processing of your application.

_____ Enclose a check or money order in the amount of \$100.00. The check or money order should be made payable to the Commonwealth of Pennsylvania. **THE FEE IS NOT REFUNDABLE**. If all materials in support of your application are not received within 6 months of the date of your signature on the application, your application will not be processed and you will have to submit another application form and fee if you still wish to obtain a license.

_____ Attach a copy of a legal form of identification, such as a driver's license, a current passport, or a valid state identification card. The copy should be submitted on an 8 1/2 x 11 sheet of paper.

_____ An official Criminal History Record Check (CHRC) from the state agency for every state in which you have resided for the past 5 years. The report(s) must be dated within 6 months of the date of your application for licensure by examination. This report can be sent to you and forwarded to the Board with your application. For Pennsylvania CHRC, this can be done online at <http://epatch.state.pa.us>. **For states that do not provide CHRC for employment or licensing purposes (CA & AZ)**, we will accept an FBI background check. Please go to <https://www.fbi.gov/about-us/cjis/identity-history-summary-checks> and obtain your Federal Bureau of Investigation (FBI) Identity History Summary Check.

If you have a criminal record,

- a. Attach certified court documents related to the conviction(s), and
- b. A personal statement explaining the conviction(s) and what you have done since the conviction(s) that demonstrates that you are rehabilitated.

Effective July 1, 2016, provide a Self-Query from the National Practitioner Data Bank completed within 6 months of submission of this application to the Board. A Self-Query can be requested online at <https://www.npdb.hrsa.gov/>. When you receive the “Self-Query Response” from the National Practitioner Data Bank, forward it to the Board office. (Verify that “Self-Query Response” is sent to the Board and not a discrepancy notice.)

Attach a copy of the front & back of your current Adult Basic CPR certification, including the expiration date of your CPR certification. CPR certification must be valid for at least 6 months following the date of signature of the application. Your card must be **signed** and if applicable, a copy of the legend must be included. The copy should be submitted on an 8 ½ x 11 sheet of paper. **Online CPR is not acceptable.**

Request the appropriate licensing agency in each state in which you now hold or ever held (active or inactive, current or expired) **ANY HEALTH-RELATED PROFESSIONAL LICENSE/CERTIFICATION** to forward a “Letter of Good Standing” **directly** to the Board office in a sealed official state board envelope.

Complete the top section of the “Verification of Massage Therapy Education” form (pages 3-4) and submit the form to the Dean, Registrar or Chairperson of your Massage Therapy Program. The school must complete the bottom section and **attach a copy of your transcript.** A qualifying program must be a minimum of 600 hours. **The school seal MUST be affixed where indicated and the ORIGINAL form returned by the school directly to the Board office in an official school envelope.** **The form must be completed AFTER you have received your certificate or degree; program completion may NOT be anticipated.** **Out-of-state schools will be required to submit a copy of their school’s certificate of accreditation or certificate of approval from the Department of Education with the form.**

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The Bureau of Professional and Occupational Affairs (BPOA), in conjunction with the Department of Human Services (DHS), is providing notice to all health-related licensees and funeral directors that are considered “mandatory reporters” under section 6311 of the Child Protective Services Law (CPSL) (23 P.S. § 6311), as amended, that **EFFECTIVE JANUARY 1, 2015**, all persons applying for issuance of an initial license shall be required to complete 3 hours of DHS-approved training in child abuse recognition and reporting requirements as a condition of licensure. Please review the Board website for further information on approved CE providers. Once you have completed a course, the approved provider will electronically submit your name, date of attendance, etc., to the Board. Child Abuse Continuing Education Providers Information can be at <http://www.dos.pa.gov>.

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If your address changes after you have submitted your application, notify the Board office in writing of your name, old address and new address. Mail this information to the Board office at the address shown above within ten (10) days.

OTHER INFORMATION:

If a pending application is older than six months from the date of signature and the applicant wishes to continue the application process, the Board shall require the applicant to submit a new application including the required fee. Many of

the supporting documents associated with the application also cannot be more than six months from the date of issuance/signature.

Maintain a copy of all documents sent to the Board. Send your application materials to the Board at: State Board of Massage Therapy, PO Box 2649, Harrisburg, PA 17105-2649 OR (for courier delivery) 2601 North Third St, Harrisburg, PA 17110.

You may view the Massage Therapy Law and the regulations of the Board online at www.dos.pa.gov/massagetherapy.

- 1 Have you ever taken the National Certification Examination for Therapeutic Massage (NCETM), the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) or the Massage and Bodywork Licensure Examination (MLBEx)? If yes, give the exam MONTH and YEAR and to which STATE the results were reported.
- MLBEx Date: ___/___/___ State: _____ NCETMB Date: ___/___/___ State: _____
 NCETM Date: ___/___/___ State: _____
- 2 As required by Section 5 (a) (2) of the Massage Therapy Law, have you earned a high school diploma or equivalent? Yes No
- 3 Have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline? Yes No
- 4 Do you currently have any disciplinary charges pending against your professional or occupational license certificate, permit or registration in any state or jurisdiction? Yes No
- 5 Have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction? Yes No
- 6 Have you been convicted (found guilty, pled guilty or pled nolo contendere), received probation without verdict or accelerated rehabilitative disposition (ARD) as to any criminal charges, felony or misdemeanor, including any drug law violations? NOTE: You are not required to disclose any ARD or other criminal matter that has been expunged by order of a court. Yes No
- 7 Do you currently have any criminal charges pending and unresolved in any state or jurisdiction? Yes No
- 8 Do you currently engage in or have you ever engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination? Yes No
- 9 Have you ever had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority? Yes No
- 10 Have you ever had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility? Yes No
- 11 Do you hold, or have you ever held, a license, certificate, permit, registration or other authorization to practice ANY health-related profession in any state or jurisdiction? If yes, please provide the profession and state or jurisdiction. (THIS INCLUDES A PENNSYLVANIA TEMPORARY PRACTICE PERMIT) Yes No

PROFESSION (DO NOT ABBREVIATE)	STATE

You must request that a Letter of Good Standing be sent from each state board office directly to the Board office in a sealed official envelope of that state board.

- 12 Will any documentation submitted in connection with this application be received in a name other than the name under which you are applying? If you selected "yes", please list the name or names. Submit a copy of the legal document indicating the name change (i.e., marriage certificate, divorce decree which indicates the retaking of your maiden name; legal document indicating the retaking of a maiden name, or court order). Yes No

IF YOU ANSWERED YES TO ANY OF THE CRIMINAL/DISCIPLINARY ACTION QUESTION(S), PLEASE ATTACH AN 8 1/2 X 11 SHEET OF PAPER GIVING FULL DETAILS. INCLUDE COURTHOUSE CERTIFIED COPIES OF DOCUMENTS EXPLAINING SITUATION, IF APPLICABLE.

VERIFICATION

NOTICE: Disclosing your Social Security Number on this application is mandatory in order for the State Boards to comply with the requirements of the Federal Social Security Act pertaining to Child Support Enforcement, as implemented in the Commonwealth of Pennsylvania at 23 Pa.C.S. § 4304.1(a). At the request of the Department of Human Services (DHS), the licensing board must provide to DHS information prescribed by DHS about the licensee, including the social security number. In addition, Social Security Numbers are required in order for the Board to comply with the reporting requirements of the U.S. Department of Health and Human Services, National Practitioner Data Bank.

I verify that I have read and am familiar with the provisions of the Pennsylvania Massage Therapy Law and regulations of the State Board of Massage Therapy (www.dos.pa.gov/massage/therapy).

I verify that this application is in the original format as supplied by the Department of State and has not been altered or otherwise modified in any way. I am aware of the criminal penalties for tampering with public records or information pursuant to 18 Pa.C.S. § 4911.

I verify that the statements in this application are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa. C.S. Section 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation or denial of my license, certificate, permit or registration.

Printed Name of Applicant

Signature of Applicant

Date

State Board of Massage Therapy

Mailing Address:
PO Box 2649
Harrisburg, PA. 17110
Phone: 717-783-7155

Courier Delivery Address:
2601 North Third Street
Harrisburg, PA. 17110
Email: RA-massage@pa.gov

VERIFICATION OF MASSAGE THERAPY EDUCATION

Applicant: Complete (by typing/printing in blue/black ink) top section and send the 2 page form to your Massage Therapy program to complete and attach your transcripts. **FAILURE TO COMPLETE ALL SECTIONS MAY DELAY THE PROCESSING OF THE APPLICATION.**

NAME _____
Last First Middle Maiden/Other name used

ADDRESS _____
Street

City State Zip Code

SOCIAL SECURITY # - - **BIRTHDATE** _____

This section to be completed by the Dean, Registrar, or Chairperson of the Massage Therapy program at the United States school which the applicant COMPLETED. DO NOT complete this form in anticipation of program completion. **FAILURE TO COMPLETE ALL SECTIONS MAY DELAY THE PROCESSING OF THE APPLICATION.**

I hereby certify that:

- 1) _____ successfully completed a Massage Therapy
(Name of Applicant)
Program at _____ on _____
(School name) (Date)
- 2) The curriculum completed by Applicant equals or exceeds the curriculum requirements set forth in 49 Pa. Code § 20.11. Hours completed _____

Provide the number of hours for each area:

- _____ Hours At least 175 contact hours of instruction in anatomy & physiology, kinesiology & pathology, including training in the human immunodeficiency virus & related risks.
- _____ Hours At least 250 contact hours of massage therapy & bodywork assessment, theory & practice including sanitation, safety, & hygiene.
- _____ Hours At least 25 contact hours of professional ethics, and business & law related to a massage therapy business.
- _____ Hours At least 150 contact hours of related courses appropriate to a massage therapy curriculum as set forth in Section 20.13 (related to required knowledge base), including cardiopulmonary resuscitation.

Name of applicant: _____

3) The school is:

- A Pennsylvania Private Licensed School
- Operated within a regionally accredited College or University

Name of College or University: _____

Accredited by: _____

- Approved by the Department of Education of _____
(State)

Printed name of Dean/Registrar/Chairperson of M. T. Program

Signature

(Date)

Name of Program _____

SCHOOL
SEAL

Name of Controlling Institution _____

Address _____

**OUT-OF-STATE SCHOOLS - PLEASE ATTACH A COPY OF THE SCHOOL
CERTIFICATE OF ACCREDITATION OR CERTIFICATE OF APPROVAL
FROM THE DEPARTMENT OF EDUCATION FOR THE TIME FRAME THE
STUDENT ATTENDED THE MASSAGE THERAPY PROGRAM**

**SCHOOL SHALL RETURN AN ORIGINAL COMPLETED FORM DIRECTLY TO BOARD OFFICE IN AN
OFFICIAL SCHOOL ENVELOPE AND ATTACH STUDENT TRANSCRIPTS. (DO NOT send a copy of
this form or return this form in an envelope provided by the applicant.)**

**Official school envelopes must have the school return address printed on the envelope, we will not
accept stamped return addresses or printed labels with a return address.**

STATE BOARD OF MASSAGE THERAPY RENEWAL APPLICATION

NAME _____

LICENSE NUMBER _____

STREET ADDRESS _____

RETURN TO:

State Board of Massage Therapy
PO Box 2649
Harrisburg PA 17105

CITY _____ STATE _____ ZIP CODE _____

Courier Address:
2601 North Third Street
Harrisburg PA 17110

Check if appropriate:

- ADDRESS CHANGE – Check if the address or email address above is a new address and not on file with the Board.
- NAME CHANGE – If the name above is not the current name on the licensure records, submit a photocopy of a legal document verifying name change (i.e., marriage certificate, divorce decree or legal document indicating retaking of a maiden name, etc.)

SECTION A – THE FOLLOWING QUESTIONS MUST BE ANSWERED – CHECK “YES” OR “NO” FOR EACH QUESTION

YES	NO	If “YES” to any of the criminal/disciplinary action question(s), please attach certified copies of legal document(s).
		1. Do you hold, or have you ever held, a license, certificate, permit, registration or other authorization to practice a profession or occupation in any state or jurisdiction?
		2. If you answered yes to the above question, please provide the profession and state or jurisdiction. Please do not abbreviate the profession. _____
		3. Since your initial application or your last renewal, whichever is later, have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline?
		4. Do you currently have any disciplinary charges pending against your professional or occupational license, certificate, permit or registration in any state or jurisdiction?
		5. Since your initial application or your last renewal, whichever is later, have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction?
		6. Since your initial application or your last renewal, whichever is later, have you been convicted (found guilty, pled guilty or pled nolo contendere), received probation without verdict or accelerated rehabilitative disposition (ARD), as to any criminal charges, felony or misdemeanor, including any drug law violations? Note: You are not required to disclose any ARD or other criminal matter that has been expunged by order of a court.
		7. Do you currently have any criminal charges pending and unresolved in any state or jurisdiction?
		8. Since your initial application or last renewal, whichever is later, have you ever engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination?
		9. Since your initial application or your last renewal, whichever is later, have you had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority?
		10. Since your initial application or your last renewal, whichever is later, have you had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility?
		11. Do you hold current valid CPR certification in Adult CPR? Courses for CPR certification must be obtained through the American Red Cross, the American Heart Association or an agency substantially similar approved by the Board. Note: Online CPR courses are not acceptable to fulfill this requirement.
		12. Have you completed 2 hours of Board-approved continuing education in child abuse recognition and reporting? NOTE: Licensees renewing after January 1, 2015, are required to complete 2 hours of Board-approved continuing education in child abuse recognition and reporting requirements as a condition of renewal.



Commonwealth of Pennsylvania
Department of State
Bureau of Professional and Occupational Affairs
STATE BOARD OF MASSAGE THERAPY
P.O. Box 2649
Harrisburg, PA 17105-2649
717-783-7155

APPLICATION FOR CONTINUING EDUCATION COURSE APPROVAL

1. **PRE-APPROVED PROVIDERS:** Pre-approved Provider status is granted to the following providers, for which this application is **NOT** required:
 - Schools of massage therapy in this Commonwealth operated under section 5(a)(3) of the act (63 P.S. §627.5(a)(3)).
 - Schools of massage therapy accredited by a National accrediting agency recognized by the U.S. Dept of Education.
 - The American Massage Therapy Association and its state chapters.
 - National Certification Board of Therapeutic Massage and Bodywork (NCBTMB) approved providers Associated Bodywork and Massage Professionals.

2. **COMPLIANCE WITH THE BOARD'S REGULATIONS**

Continuing education must be designed to advance the licensee's professional knowledge and skills related to the practice of massage therapy in accordance with the Board's regulations at 49 Pa. Code §§ 20.32-20.34. **No credit will be given for courses in office management or practice building.**

3. **INSTRUCTIONS:**

This application must be submitted at least 90 days prior to the date of the course.

1. Submit a course outline AND detailed course description, including an hourly program schedule with descriptions of the subject matter. Continuing education program hours do not include breaks or lunch; however, the course outline should indicate whether breaks and/or lunch are scheduled. Please do not include breaks or lunch in total program hours being offered.
2. Submit a continuing education presenter information form and resume with credentials for each instructor.
3. Submit a sample of the Certificates of Completion to be issued to each attendee. The sample must contain the name of the provider, title of course, date of course, and spaces for inclusion of the name of the attendee, the number of program hours completed, signature of person verifying completion, and a space entitled "PA Board Approval Number." (This notation is not required for Pre-approved providers.) The Board approval number will be sent by the Board with the approval notification.
4. **YOU MUST SUBMIT THE \$100.00 APPLICATION FEE. Make check or money order payable to "Commonwealth of PA." The fee is not refundable. A processing fee of \$20.00 will be charged for any check or money order returned unpaid by your bank, regardless of the reason for non-payment.**

STATE BOARD OF MASSAGE THERAPY
PO BOX 2649
HARRISBURG PA 17105-2649
717-783-7155

MASSAGE THERAPY CONTINUING EDUCATION COURSE APPLICATION

Name of Provider _____

Provider Address _____

Contact Person _____ Daytime Phone _____

I verify that this form is in the original format as supplied by the Department of State and has not been altered or otherwise modified in any way. I am aware of the criminal penalties for tampering with public records or information pursuant to 18 Pa.C.S. Section 4911.

Signature _____ Date _____

.....
Title of Course _____

Initial Date of Course _____ Initial Course Location _____

Name of Instructor (s) _____

Course approval is valid for the 2 year cycle (February 1 of odd year through January 31 of the next odd year) from the date the course is approved for credit, provided the faculty and learning objectives are unchanged. If you have additional dates, they can all be included at time of initial request or you will have to submit a written request of the additional dates with a letter stating nothing in the course has changed. If you wish to give the same course in a new cycle, you must reapply for each future cycle.

Course is administered via:

- In-person instructor /speaker
- Correspondence (written material)
- Individual study (includes online)

Total number of program hours requested _____

BOARD USE ONLY

Application Number _____

Board member reviewing _____

Approve _____ Disapprove _____

Date _____

Reason(s) for disapproval _____

STATE BOARD OF MASSAGE THERAPY
PO BOX 2649
HARRISBURG PA 17105-2649
717-783-7155

STATE BOARD OF MASSAGE THERAPY
CONTINUING EDUCATION PRESENTER INFORMATION FORM

1. To be submitted with application.
2. To be printed or typed only.
3. Provide professional background and expertise of each presenter with credentials.

NAME OF FACULTY/PRESENTER _____

ADDRESS _____

Street

City

State

Zip Code

TELEPHONE NUMBER _____

EDUCATION _____

SPECIFY PROFESSIONAL QUALIFICATIONS (Please attach resume and credential documentation)



Commonwealth of Pennsylvania
 Department of State
 Bureau of Professional and Occupational Affairs
STATE BOARD OF MASSAGE THERAPY
 P.O. Box 2649
 Harrisburg, PA 17105-2649
 717-783-7155

APPLICATION TO CONDUCT AN EDUCATION CONFERENCE

1. \$100.00 Application fee is required per 49 Pa.Code § 20.3(a)- check or money order payable to "Commonwealth of PA" - Fee is non-refundable. A processing fee of \$20.00 will be charged for any check or money order returned unpaid by your bank, regardless of the reason for non-payment.
2. Must be submitted for approval AT LEAST 90 DAYS PRIOR to the scheduled date of the conference.
3. NO practice management courses will be considered.
4. A continuing education presenter information form and resume.
5. A sample of the **Certificates of Completion** to be issued to each attendee. The sample must contain the name of the provider, title of course, date of course, and spaces for inclusion of the name of the attendee, the number of hours completed, signature of person verifying completion and a space entitled "PA Board Approval Number: _____" (This notation is not required of the pre-approved providers). The Board approval number will be sent by the Board with the approval notification.

APPLICANT IS (CHECK ONE): () SPONSORING AGENCY () INDIVIDUAL INSTRUCTOR

APPLICANT'S NAME (Agency; Organization; Institution; Center)

ADDRESS _____

Street

City

State

Zip Code

CONTACT PERSON'S NAME _____

TELEPHONE (including area code) _____

TITLE OF CONFERENCE _____

OBJECTIVES OF CONFERENCE _____

CHECK ONE: Are any hours being requested for ethics? _____ YES _____ NO – If yes, how many hours? _____

PROGRAM SCHEDULE- Exact breakdown of courses, hours related to ethics and total hours requested. (Attach detailed time schedule, hour by hour of subject matter.)

DATE AND LOCATIONS OFFERED (include City and State)

METHODS OF INSTRUCTION: (Lecture, group dynamics, audiovisual aids, etc.)

DESCRIBE THE METHOD TO BE USED TO MONITOR ATTENDANCE AND SATISFACTORY COMPLETION OF THE COURSE.

I verify that this form is in the original format as supplied by the Department of State and has not been altered or otherwise modified in any way. I am aware of the criminal penalties for tampering with public records or information pursuant to 18 Pa.C.S. Section 3911.

Signature of Applicant/Contact Person

Date Submitted

STATE BOARD OF MASSAGE THERAPY
PO BOX 2649
HARRISBURG PA 17105-2649
717-783-7155

STATE BOARD OF MASSAGE THERAPY
CONTINUING EDUCATION PRESENTER INFORMATION FORM

1. To be submitted with application.
2. To be printed or typed only.
3. Provide professional background and expertise of each presenter.

1. NAME OF FACULTY/PRESENTER _____

2. ADDRESS _____

Street

City

State

Zip Code

3. TELEPHONE NUMBER _____

4. EDUCATION _____

5. SPECIFY PROFESSIONAL QUALIFICATIONS (Please attach resume) _____

ATTACHMENT D

STATE BOARD OF MASSAGE

THERAPY

CURRENT FINANCIAL REPORTS

Commonwealth of Pennsylvania



DEPARTMENT OF STATE

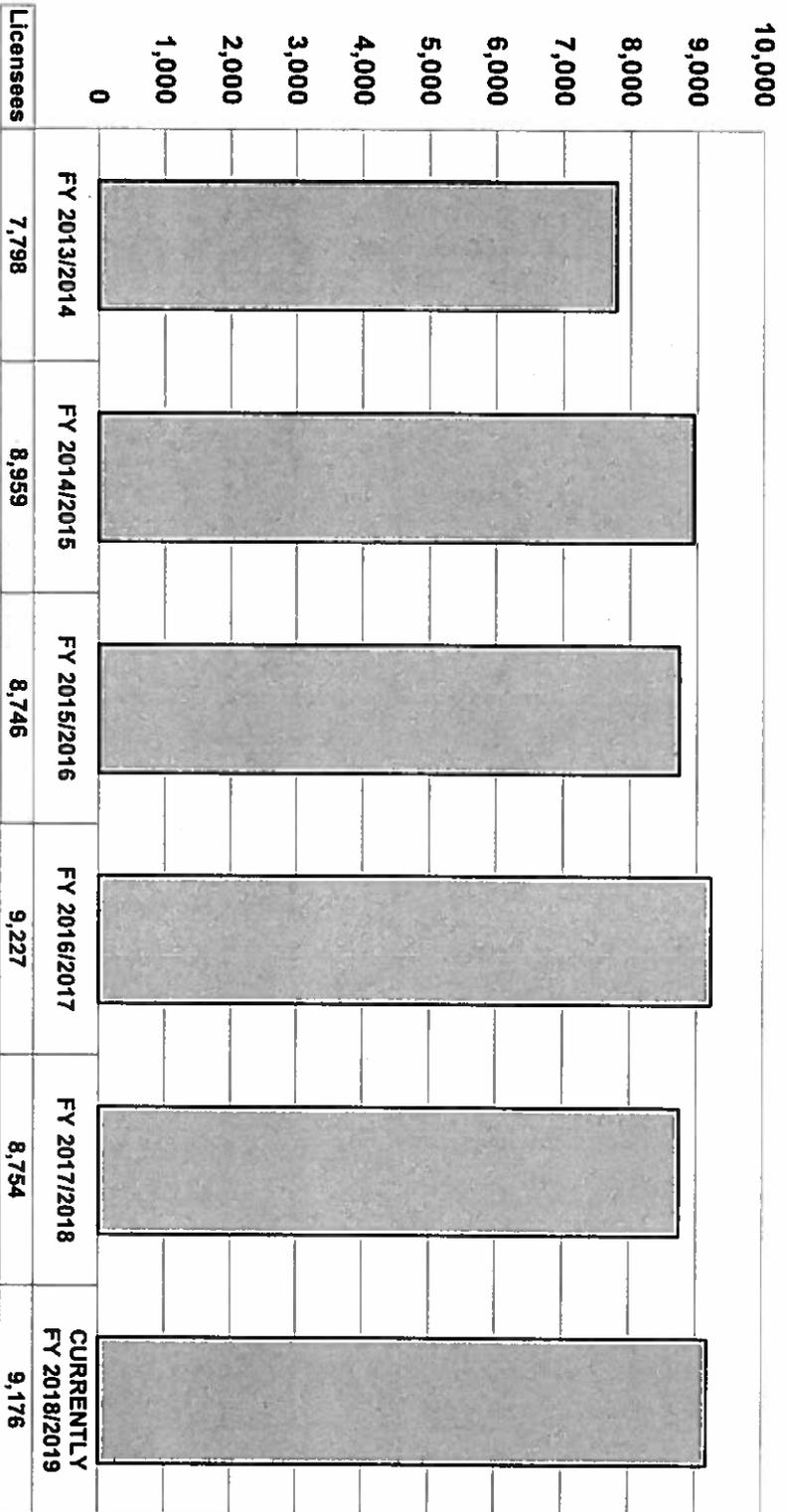
STATE BOARD OF MASSAGE

FY 2016-2017 EXPENDITURES

FY 2017-2018 EXPENDITURES

FY 2018-2019 BUDGET INFORMATION

STATE BOARD OF MASSAGE THERAPY RENEWABLE LICENSEE COUNTS



<u>LICENSEES BY CLASS</u>		<u>FY 16-17</u>	<u>FY 17-18</u>	<u>FY 18-19</u>
Massage Therapist		9,227	8,754	9,176
TOTAL		9,227	8,754	9,176 as of 8/31/2018

Message Therapy	Initial Licensing Fees	Licensing Renewal Fees	Training Requirement	Continuing Education
ME Region Average	\$ 174.80	\$ 127.25	612.5 hrs.	16.83 hrs.
PA	\$ 65.00	\$ 75.00	600 hrs.	24 hrs
Median	\$ 134.00	\$ 115.00	550 hrs.	22 hrs

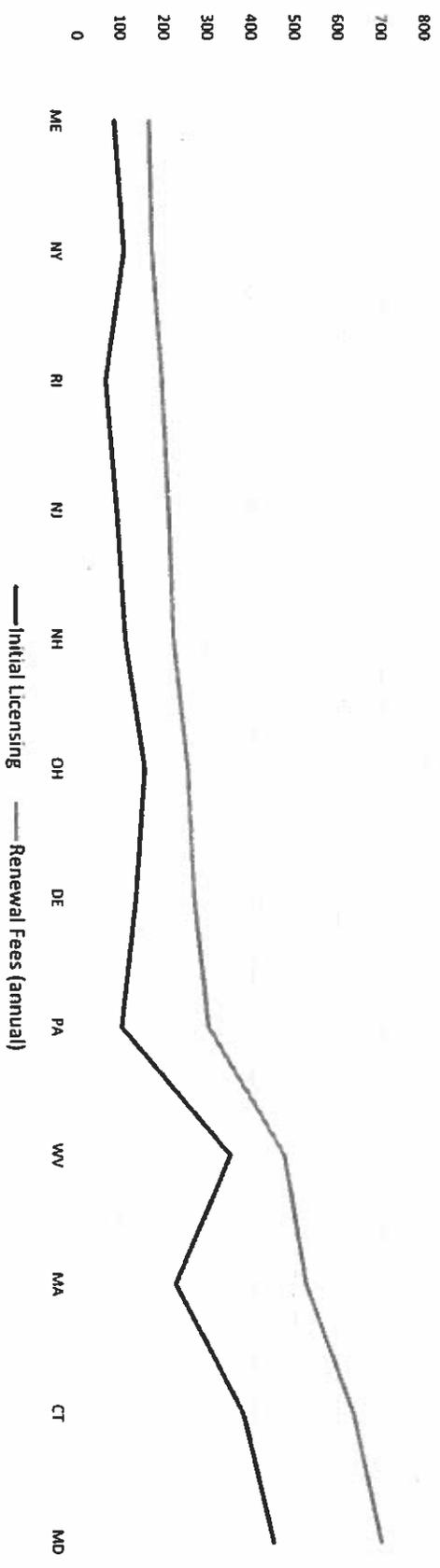
Message Therapist	PA	OH	WV	ME	MA	NH
Initial Licensing	\$65 => \$100	153.5	350	86	225	110
Renewal Fees (biennial)	\$75 => \$200	100	125	80	300	110
Training Required (in hrs)	600	750	500	500	650	750

Message Therapist	DE	MD	NI	NY	RI	CT
Initial Licensing	134	450	\$60 - \$120*	108	65	379.75
Renewal Fees (biennial)	134	250	120	64.33	130	255
Training Required (in hrs)	500	600	500	1000	500	500

* \$60 fee if issued in 2nd yr. of renewal, \$120 if issued in 1st yr.

Information based on chart provided by: The Knee Center for the Study of Occupational Regulation.

Massage Therapy for PA and surrounding states



**State Board of Massage Therapy
PROPOSED BIENNIAL RENEWAL FEE INCREASE - EFFECTIVE JANUARY 2019
CURRENT LICENSEE POPULATION - STEPPED INCREASE LOW TO HIGH**

AVERAGE LICENSE COUNT	CURRENT RENEWAL FEE	TOTAL RENEWAL FEES
9,176	75.00	688,200.00
9,176		888,300.00

2,135	\$ 65.00	\$ 138,775.00
	\$	\$ 98,231.85
	\$	\$ 237,006.85
TOTAL NON-RENEWAL APPLICATION REVENUE:		
TOTAL NON-RENEWAL OTHER REVENUE:		
TOTAL NON-RENEWAL REVENUE:		
TOTAL BOARD REVENUE:		\$ 928,206.85

Licensee Count	Renewal Fee	Total Revenue	Biennial FY16-17 Increase - \$129.00			Biennial FY16-17 Increase - \$158.00			Biennial FY16-17 Increase - \$172.00		
			Licensee Count	Renewal Fee	Total Revenue	Licensee Count	Renewal Fee	Total Revenue	Licensee Count	Renewal Fee	Total Revenue
9,176	\$ 125.00	\$ 1,147,000.00	9,176	\$ 147.00	\$ 1,348,800.00	9,176	\$ 172.00	\$ 1,578,400.00	9,176	\$ 197.00	\$ 1,805,600.00
2,135	\$ 100.00	\$ 213,500.00	2,135	\$ 125.00	\$ 267,187.50	2,135	\$ 150.00	\$ 320,250.00	2,135	\$ 175.00	\$ 373,312.50
	\$	\$ 98,231.85		\$	\$ 98,231.85		\$	\$ 98,231.85		\$	\$ 98,231.85
	\$	\$ 311,231.85		\$	\$ 311,231.85		\$	\$ 311,231.85		\$	\$ 311,231.85
Biennial Total		\$ 1,458,231.85	Biennial Total		\$ 1,668,131.85	Biennial Total		\$ 1,907,531.85	Biennial Total		\$ 2,121,831.85

*Total enclosed applicants over a biennial period.

FINANCIAL STATUS	CURRENT FEE \$75		PROJECTED FEE - \$125		PROJECTED FEE - \$150		PROJECTED FEE - \$175		PROJECTED FEE - \$197	
	Actual FY 16-17	Estimated FY 17-18	Projected FY 16-17*	Projected FY 18-19	Projected FY 18-19	Projected FY 21-22	Projected FY 22-23	Projected FY 23-24	Projected FY 24-25	Projected FY 25-26
Opening Balance:	(1,132,918.22)	(1,076,100.88)	(1,592,540.73)	(859,548.71)	(1,482,548.73)	(672,548.73)	(1,182,548.71)	(487,548.71)	(887,548.71)	(284,548.71)
Revenue:	781,421.77	132,548.02	1,282,008.00	177,008.00	1,509,008.00	178,008.00	1,738,008.00	181,008.00	1,724,008.00	161,008.00
TOTAL AVAILABLE:	(412,516.45)	(943,552.86)	218,548.71	(612,540.71)	28,459.22	(494,540.71)	555,459.22	13,418.22	1,839,459.22	487,459.22
Estimated Budget:	633,358.41	642,008.00	679,008.00	679,008.00	699,008.00	699,008.00	720,008.00	711,008.00	722,008.00	732,008.00
Remaining Balance:	(1,078,100.88)	(1,592,540.73)	(1,911,548.71)	(1,482,548.71)	(1,773,548.71)	(1,383,548.71)	(1,662,548.71)	(1,471,548.71)	(1,664,548.71)	(1,420,548.71)

*Total enclosed applicants over a biennial period.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

DATE: September 26, 2018

SUBJECT: Proposed Rulemaking:
State Board of Massage Therapy
Fees (16A-724)

TO: Marisa G. Z. Lehr, Deputy General Counsel
Office of General Counsel



FROM: Cynthia K. Montgomery, Regulatory Counsel
Department of State

There are no significant legal issues presented by this final rulemaking of the State Board of Massage Therapy. The most significant policy issue stems from such a large increase in the biennial renewal fee for all licensees. The current fee schedule was established in the Board's initial rulemaking in 2011 based upon an estimate of the costs of administering the functions of the Board at that time. However, since the Board began issuing licenses in 2011, it has not produced enough revenue to cover its current operating expenses. The Pennsylvania Chapter of the American Massage Therapy Association (AMTA) has indicated that it understands the need for a fee increase, but that such a large increase could be a financial hardship for some licensees. The 2017 average annual salary for a massage therapist in Pennsylvania is \$ 42,210 (according to the Pennsylvania Department of Labor & Industry).

In response to comments from more than 400 licensed massage therapists, as well as the Independent Regulatory Review Commission, the final rulemaking was revised to reduce the increase in the biennial renewal fee and to phase it in over three biennial renewal periods. The increased fees are needed to permit the State Board of Massage Therapy to carry out its legislative mandate to regulate the practice of massage therapy in the public interest. Without these increases, the Board cannot continue to investigate, prosecute and discipline unlicensed and/or unethical practitioners of massage therapy. The Board does not believe that the increase in the initial application fee from \$65 to \$100 (an increase of \$35) will unreasonably restrict qualified persons from entering the profession. The revised biennial renewal fee schedule will be less burdensome and will provide licensees the ability to budget for the increase over the next 6 years.

I certify that I have reviewed this regulation for form and legality, that I have discussed any legal and policy issues with the administrative officers responsible for the program, and that all information contained in the Preamble and Annex is correct and accurate.

CKM

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)



DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Massage Therapy
(AGENCY)

BY: BLE Muring

DOCUMENT/FISCAL NOTE NO. 16A-724

DATE OF APPROVAL

DATE OF ADOPTION: _____
Becky D. Lesik

OCT 04 2018
DATE OF APPROVAL

BY: _____
Becky D. Lesik, LMT

(Executive Deputy General Counsel
Strike inapplicable title)

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable Copy not approved. Objections attached.
- Check if applicable. No Attorney General approval or objection within 30 day after submission.

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MASSAGE THERAPY
49 PA CODE, CHAPTER 20

§ 20.3

FEES

The State Board of Massage Therapy (Board) hereby amends § 20.3 (relating to fees) to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*. The increased application fees will be implemented immediately; the increased biennial renewal fees will be implemented beginning with the January 31, 2019, biennial renewal.

Statutory Authority

Section 11(a) of the Massage Therapy Law (act) (63 P.S. § 627.11(a)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties imposed under the act are not sufficient to meet expenditures over a 2-year period.

Background and Need for Amendment

Under section 11(a) of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board shall increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees, fines and civil penalties.

Under section 49 of the act (63 P.S. § 627.49), initial operating funds were transferred from the Professional Licensure Augmentation Account (PLAA) to the Board to be repaid to the PLAA within three years of the beginning of the issuance of licenses. The current fee schedule in § 20.3 (relating to fees) was established with the Board's initial rulemaking in 2011 based upon an estimate of the costs of administering the functions of the Board at that time. See 41 Pa.B. 16 (January 1, 2011). However, since the Board began issuing licenses in 2011, it has not produced enough revenue to cover its current operating expenses. In fact, the deficit balance in the Board's account as of the beginning of fiscal year 2018-2019 is projected by the Bureau of Finance and Operations (BFO) to be \$1,592,560.78.

Therefore, the Board determined that it is necessary to raise fees to meet or exceed projected expenditures, in compliance with section 11(a) of the act. Based on recommendations from BFO, the Board published its proposed rulemaking at 48 Pa.B. 3736 (June 23, 2018), in which the Board proposed three amendments to the Board's fee schedule. As proposed, the Board

would have amended § 20.3 to increase the application fee for initial licensure from \$65 to \$100; to increase the application fee for approval of a continuing education program from \$65 to \$100; and to increase the biennial renewal fee from \$75 to \$200. The Board had also proposed to eliminate subsection (d) as outdated because the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) no longer provides an examination. During the 30-day public comment period and thereafter, the Board received 413 comments from the regulated community, including comments from Deborah Dunn, President of the Lancaster School of Cosmetology and Therapeutic Bodywork; Tracy Becker, Executive Director of the Clarion Area Chamber of Commerce; and approximately 410 individual licensed massage therapists. Virtually all of these comments objected to the increase in the biennial renewal fee for licensed massage therapists, and to a lesser degree to the increased application fee and continuing education approval fee. On August 22, 2018, the Board received comments from the Independent Regulatory Review Commission (IRRC).

Summary of Comments and the Board's Response

After summarizing many of the public comments, IRRC asked the Board to address the adverse economic impacts that commenters have asserted will result from the significant biennial renewal fee increase. The Board reviewed all of the public comments and offers the following response.

Of the 413 public commenters, the vast majority objected to the increase in the biennial renewal fee from \$75 to \$200. In fact, only three were supportive, and 17 were neutral. A large number simply said that the proposed fee increase was too large and burdensome, especially for many massage therapists who only practice part-time. Many felt that such an increase would result in existing licensees choosing not to renew their licenses, thus resulting in less revenue, not more. Licensees also commented that with costs associated with continuing education, insurance and equipment, such an increase is excessive. Many complained that unlike other health-related services, massage therapy is generally not covered by insurance and during economic down turns, people will cut out massages as an unnecessary expense. There were a number of commenters who compared the proposed fee with those paid by other professions in this Commonwealth and with the fees paid by massage therapists in other states. The commenters generally asked for no increase, a smaller increase or a graduated increase.

Because the Board is required to support its operations with the revenue it raises from fees, fines and civil penalties, the option to not increase fees at this time is untenable. As noted, the Board's deficit has grown to approximately \$1.5 million at the beginning of this fiscal year. Revenues capable of being produced under the current fee structure each biennium are approximately \$925,000; while expenditures are approximately \$1,300,000, resulting in a biennial operating deficit of approximately \$375,000. The act requires the Board to set its fees at a level

high enough to cover its expenditures over a 2-year period. Thus, an increase is necessary.

However, the original proposal put forth by BFO of a \$200 biennial renewal fee would have eliminated the deficit over two renewal periods. As a result of its review of the regulated community's comments, the Board asked BFO to consider recouping the deficit over a period of 10 years (in that it has taken 10 years to get into this financial hole, it should take no less than 10 years to dig out of it). In addition, the Board asked BFO to consider a graduated fee increase so that licensees would have the ability to budget for the increase, rather than be surprised by such a large increase when they apply for renewal in 2019.

BFO returned to the Board at its meeting on September 18, 2018, and provided a revised proposal which would 1) allow the Board adequate revenue to cover its projected biennial expenditures; 2) eliminate the deficit over a period of 10-years (by fiscal year 2027-28); and 3) provide for a graduated increase to make it possible for licensees to budget for the necessary increases. The new proposal would increase the biennial renewal fee for licensed massage therapists from \$75 to \$125 for the 2019-21 biennial renewal period; to \$150 for the 2021-23 biennial renewal period; and to \$175 for the 2023-25 renewal period. While the Board recognizes that many of the commenters will still not be happy paying more to renew their licenses, it has endeavored to find a compromise that addresses as many of the licensees' concerns as possible, while still eliminating the deficit and returning the Board to sound financial condition.

Commenters offered a number of suggestions for the Board to balance its budget without an increase in fees. Many suggested that the Board should shift the burden to those who would practice without a license or who violate the licensing laws in the form of increased civil penalties. Some commenters chastised the Board, indicating there remains too much unlicensed practice, or that the Board is somehow not policing the profession adequately. Some suggested that the Board should require licensure for Asian bodyworkers, a profession that is exempt from licensure under section 13 of the act (63 P.S. § 627.13(6)). IRRC asked the Board to explain what steps the Board is taking to increase revenues by shifting the burden from licensees to unlicensed individuals through fines and civil penalties. The revenue produced through civil penalties is unreliable at best and is not intended to be used to balance a board's budget. Instead, the Board imposes civil penalties on unlicensed individuals and on licensees who have violated the act or the Board's regulations as a deterrent – to those who have violated the law and to other similarly situated individuals. Indeed, the courts have ruled that excessive civil penalties are punitive, rather than deterrent, and have set them aside. The enforcement efforts of the Board, like all other boards and commissions under the Bureau of Professional and Occupational Affairs, are primarily complaint driven. Based on the most recent figures provided to the Board from the Office of Chief Counsel, since the Board began its operations in fiscal year 2010-11 through the end of fiscal year 2016-17, there have been approximately 1,177 complaints filed relating to massage therapy. Each complaint is investigated to determine if a violation of the act or regulations has occurred. Each investigation

requires the expenditure of funds – funds which are unlikely to be recouped through the imposition of civil penalties by the Board. Often an investigation does not result in a prosecution. Many activities that one may consider part of “massage therapy” are specifically exempt from licensure under section 13 of the act, including acupuncture, Asian bodywork therapy, polarity therapy bodywork, quigon, reiki, shiatsu and tui na. Complaints are routinely filed against practitioners and upon investigation, it is determined that they are exempt from licensure such that no civil penalties may be imposed. Additionally, those who practice massage therapy without a license are unlikely to pay a civil penalty imposed by the Board, which is then turned over to the Office of the Attorney General for collection. Recently, a new law was passed (the act of October 20, 2017 (P.L. 379, No. 40)) which amended the Administrative Code of 1929 to permit the Attorney General’s office to retain 25% of all funds they collect on behalf of a board. For these reasons, balancing the Board’s budget by imposing greater civil penalties would simply not work.

Other commenters suggest that the Board should cut the salaries of its staff or the Board members themselves should have their salaries cut. The majority of the Board’s costs are personnel related, and much of those costs are not within the Board’s control. Staff are generally employees of the Commonwealth, most of whom are civil service personnel, and many are union positions. For these employees, the Board is bound by the negotiated contract. Personnel costs associated with investigation and enforcement depend largely on the number of complaints received that need to be investigated, and the number of those matters that result in disciplinary action. The Board has no control over the number of complaints that are filed against licensees and unlicensed individuals, nor may they control which matters are or are not prosecuted. Board members themselves receive \$60 per day when attending to Board business – an amount set forth in section 3 of the act (63 P.S. § 627.3). Board members are also entitled to receive “reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties.” The actual “Board member expenses” budgeted for fiscal year 2018-19 amount to \$15,000, out of the \$667,000 projected budget, or approximately 2.2 percent. Thus, cutting Board member expenses would have little effect on the bottom line. To those commenters who feel that the Board is out-of-touch, wants a larger paycheck, is fleecing the regulated community, or otherwise does not care about the average licensee, it should be noted that the Board is made up of a majority of professional members – licensed massage therapists - who will also be required to pay the increased biennial renewal fees.

In response to those commenters who objected to the increase because they are only part-time practitioners, the Board cannot distinguish between licensees based on the number of hours they work, as the Board has no control over that number. Nor can the Board distinguish between licensees based on their annual income. However, the Board hopes that the new lower, graduated fee approach will allow licensees to budget for the increases, which now amount to a \$50 increase in 2019, a \$25 increase in 2021 and a \$25 increase in 2023. In addition, the Board has committed to reassessing the fee in 2027 when the accumulated deficit has been eliminated.

Additionally, the Board members recognize that the biennial renewal fee is not the only expense a licensed massage therapist incurs related to licensure, as many commenters pointed out. Section 6 of the act (63 P.S. § 627.6) requires each licensee to maintain current CPR certification and to complete a minimum of 24 hours of continuing education in the field of massage therapy as a condition of license renewal. These are statutory requirements set forth by the General Assembly. Many commenters mentioned the increased costs associated with continuing education courses, 16 of which are required by the Board's regulations to be completed in the physical presence of an instructor or supervisor. Although the Board cannot alter the number of hours of continuing education required by the act, the Board will take this comment under advisement when considering amendments to its continuing education regulations.

Many commenters compared the Board's proposed fees with fees paid by other professions licensed in the Commonwealth, including nurses and physical therapists. Each board is required to be funded by the fees, fines and civil penalties it generates. Comparing one board with another is difficult – like comparing apples to oranges. For example, the State Board of Nursing has been in existence since the early 1900's and has over 300,000 licensees. The Board was created in 2008 and has only 9,176 licensees. Comparing a relatively new board with an established board, especially one with 33 times as many licensees, is not instructive. More instructive may be a board of comparable size and budget – e.g., the State Board of Barber Examiners. The Barber board has approximately 9,235 licensees (compared to 9,176 licensees licensed by the Board) and annual expenditures of approximately \$700,000 (compared to \$667,000 for the Board). Biennial renewal fees range from \$109 to \$174 for barbers, barber managers and barber teachers, which is comparable to the new proposed biennial renewal fee structure for massage therapists.

Other commenters compared the Board's proposed biennial renewal fee with those paid by massage therapists in other states. Again, because the Board is required to set its fees to cover the cost of its operations, comparisons with other states may not be instructive because not all states have similar licensure schemes and funding streams. However, a review of fees in the Northeast region of the United States indicates that the average renewal fee for massage therapists is \$125.25, with a low of \$65 (New York) and a high of \$255 (Connecticut). Thus, the revised fee structure is in line with nearby states.

A few commenters objected to the increase in the initial license fee from \$65 to \$100. They believe that many massage therapists will forego licensure and practice without a license. The new proposed fee is based on the actual cost of processing an application for licensure as a massage therapist. If the fee is not increased, the general licensee population would essentially be underwriting these costs for individual applicants who may or may not ever obtain licensure. A review of nearby states indicates that the average initial licensing fee in the Northeast region is \$174.80, with a low of \$65 (Rhode Island) to a high of \$450 (Maryland). Thus, the Board finds the initial licensure fees to be appropriate and not overly burdensome. The Board would encourage

all licensees to report unlicensed practice for investigation.

Finally, a few commenters noted that the increased fee for approval of a continuing education course (from \$65 to \$100) would simply be passed on to massage therapists by the continuing education providers. As noted above, this fee has been calculated based on the actual cost of processing the application for approval. Additionally, this fee is only charged to those providers of continuing education who are not preapproved by the Board as set forth in § 20.33 (relating to continuing education content and providers). The preapproved providers provide the vast majority of continuing education to the Board’s licensees, as the Board only approves a handful of courses each year, out of the hundreds of available courses for massage therapists. At the present time, there are only six courses for continuing education approved by the Board that are not offered by preapproved providers.

In addition to asking the Board to address the economic impacts identified by the commenters, IRRC also asked the Board to address the Board’s debt to the Professional Licensure Augmentation Account (PLAA). Specifically, IRRC asked how much the Board initially borrowed and what remaining balance is owed to the PLAA. The chart below shows the initial funds (\$ 89,628.94) that were advanced by the PLAA during years when the Board had no revenue prior to the issuance of licenses in fiscal year (FY) 2010-11. The Board had received sufficient revenue to cover all start up fees once they began issuing licenses. However, those revenues failed to also cover the Board’s other operational expenditures. Thus, while the funds advanced from the PLAA were technically returned to the PLAA, the Board has been depending on the PLAA to subsidize its expenditures that are not covered by the current fee structure since its inception and currently “owes” \$1,571,455.03 to the PLAA. Provided the revised incremental renewal fee increase is approved, the Board’s debt to the PLAA should be erased within the next decade.

FISCAL YEAR	EXPENSES	REVENUE
FY2008-09	(\$8,265.15)	\$0.00
FY2009-10	(\$81,363.82)	\$0.00
FY2010-11	(\$211,749.61)	\$203,105.00
FY2011-12	(\$413,876.64)	\$293,876.80
FY2012-13	(\$596,442.21)	\$608,164.13
FY2013-14	(\$601,282.08)	\$129,889.26
FY2014-15	(\$664,644.20)	\$679,902.08
FY2015-16	(\$635,539.01)	\$196,667.41
FY2016-17	(\$653,584.41)	\$701,421.77
FY2017-18	(\$587,017.68)	\$133,840.08
FY2018-19 (FYTD)	(\$82,539.97)	\$17,983.22
TOTAL	(\$4,536,304.78)	\$2,964,849.75

IRRC also asked the Board to explain whether the costs, as presented, are strictly Board expenses, or include State Department overhead, and how the Board reconciles its deficit with the Department's budget. The Board is required to pay for charges to various support offices within the agency including the Executive Offices, Office of Policy, Office of Legislative Affairs, Office of Chief Counsel, Office of Communications and Press, Office of Human Resources, the Bureau of Finance and Operations, and the Office for Information Technology. All charges are based on work completed for the Board. On average, 5%-8% of the Board's total annual expenses are attributed to the work completed by these support entities. The Board's expenditures are a part of the overall budget of the agency. Furthermore, the Board resides among 25 other Boards and Commissions under the PLAA account. In accordance with section 11(c) of the act, all fees, fines and civil penalties collected by the Board are paid into the PLAA. In accordance with section 301 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-301), money in the account may only be used "for the support of the operation of the [B]ureau and the various regulatory boards." Each year the General Assembly appropriates from the PLAA for the operation of the various regulatory boards, and for other general costs of Bureau operations, monies available from the PLAA. Thus, although each board is expected to support its operations from revenues it produces from fees, fines and civil penalties, excess funds in the PLAA are used temporarily to cover outstanding expenses unable to be covered by revenue received by the Massage Therapy Board.

IRRC pointed out that the "Fee Report Form" related to the biennial renewal fee does not include "Fee-Related Activities and Costs," and asked that the Board explain, without these costs, how the proposed fee was determined. Generally, the Bureau's Revenue Office creates a fee report form when calculating fees for services performed by the Boards to individuals (for example, processing applications, verification of status of licensure/letters of good standing, approval of a continuing education course, etc.) based on the cost associated with that specific activity/service. In that way, the individual pays for the service, rather than the costs being spread across the licensee population. Other costs, however, such as departmental overhead, board administration, investigation and enforcement, legal office costs (including prosecution, counsel, hearing expenses, etc.) cannot be attributed to a specific individual and are borne by the general licensee population through the biennial renewal fee. In layman's terms, through collaboration with the various offices within the agency, BFO projects expected expenditures over a 2-year period, estimates the amount of "non-renewal" revenue that is produced through other fees, fines and civil penalties, and then determines the amount that is needed to cover the remaining projected expenditures. This amount must be funded through the biennial renewal fee and is divided equally among the current licensee population. Therefore, the "Fee-related Activities and Costs" related to the biennial renewal fee are all costs that are unrelated to a specific service provided to an individual by the Board.

Additionally, IRRC asked the Board to explain why the initial estimate of the costs of administering the functions of the Board resulted in the Board not producing enough revenue to cover its operating expenses since it began issuing licenses in 2011. At the time of drafting its initial regulations, including the fee schedule, the Board looked to other established boards within the Bureau of Professional and Occupational Affairs which the Board felt would be comparable. However, the Board failed to discern the large number of applicants who would apply as “existing practitioners,” that would result in hearings relating to their qualifications. Once the deadline to obtain licensure passed, the Board experienced an influx of “unlicensed practice” complaints that resulted in investigative and legal expenses. For example, in 2013, there were 96 matters involving unlicensed practice resolved by the Board. Even today this category of case continues to demand a great deal of resources of the Board, as noted by the commenters. During fiscal year 2016-17, 46 cases involving unlicensed practice concluded. Finally, the Board underestimated the significant costs that would be incurred related to investigating and prosecuting sexual misconduct cases before the Board. During fiscal year 2016-17, there were 15 matters involving sexual misconduct concluded, seven of which resulted in significant discipline (suspension or revocation of a license). It is unfortunate that the Board did not anticipate these circumstances, which resulted the Board underestimating the necessary expenditures and setting the initial fees too low to support the level of enforcement demanded under the act.

Finally, IRRC asked the Board to remove references to Section 11(b) of the act from the statutory authority sections of the Preamble and the Regulatory Analysis Form, since this citation references the authority of the Bureau, not the Board. The Board has made this amendment to both the Preamble and the RAF. However, the Board believes it is prudent to point out that under section 11(b), should the Board not raise its fees to cover the minimum enforcement efforts required by the act, then the Bureau is required to step in and increase the fees.

Description of Amendments to the Final-Form Rulemaking

The final-form rulemaking amends § 20.3 (relating to fees) to increase the application fee for initial licensure from \$65 to \$100 and to increase the fee for approval of a continuing education program from \$65 to \$100, as originally proposed. These fees are designed to cover the costs to process the application and should be borne by the individual applicant. However, in response to the many comments received, the Board has revised the increase to the biennial renewal fee to provide a graduated fee increase: from \$75 to \$125 for fiscal year 2018-2019; from \$125 to \$150 for fiscal year 2020-2021; and from \$150 to \$175 for fiscal year 2022-2023 and thereafter, unless changed by the Board. The Board is committed to reassessing the fee structure when the deficits have been eliminated and the “debt” to the PLAA is repaid, currently projected to be after the 2017 biennial renewal.

Fiscal Impact

The proposed amendments will increase the biennial renewal fees, the initial application fees and the fee for approval of continuing education programs. There are currently approximately 9,176 licensees that will be required to pay \$50 more to renew their licenses in 2019; \$25 more to renew their licenses in 2021; and \$25 more to renew their licenses in 2023, and thereafter. There are currently approximately 1,000 initial applicants annually who will have to pay \$35 more to obtain an initial license. The sponsors of continuing education programs that are not preapproved will have to pay \$35 more for the approval of their continuing education programs. The Board only processes a handful of continuing education program approvals each year. The proposed regulation should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new fees; however, the amendments will not create additional paperwork for the regulated community or for the private sector.

Sunset Date

The act requires the Board to monitor its revenue and costs on a fiscal year and biennial basis. Therefore, no sunset date has been assigned. However, the Board is committed to reviewing the fee structure once the deficits have been eliminated and the monies owed to the PLAA are repaid.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), on June 13, 2018, the Board submitted a copy of this proposed rulemaking, published at 48 Pa.B. 3736, to IRRC and the chairpersons of of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC). A copy of this material is available to the public upon request.

In preparing the final-form rulemaking, the Board has considered all comments received from the public and from IRRC. The Board received no comments from the SCP/PLC or from the HPLC.

On October 10, 2018, the Board delivered the final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on

§ 745.5a(j.2), on _____, 2018, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2018, and approved the final-form rulemaking.

Additional Information

Further information may be obtained by contacting Carol Niner, Board Administrator, State Board of Massage Therapy, P.O. Box 2649, Harrisburg, PA 17105-2649, or by email at RA-MASSAGETHERAPY@pa.gov.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 48 Pa.B. 3736.
- (4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Massage Therapy Practice Act.

Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board at 49 Pa. Code § 20.3 are amended to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General, the Office of General Counsel for approval as required by law.
- (c) The Board shall submit this order and Annex A to IRRC, the HPLC and the SCP/PLC as required by law.
- (d) The Board shall certify this order and Annex A and deposit them with the Legislative

Reference Bureau as required by law.

(e) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

Becky D. Lesik, LMT
Chairperson

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 20. STATE BOARD OF MASSAGE THERAPY

GENERAL PROVISIONS

* * * * *

§ 20.3. Fees.

(a) The following fees are charged for services provided by the Board:

Application for <u>initial</u> licensure	[\$65] <u>\$100</u>
Application for temporary practice permit	\$65
Verification of licensure or letter of good standing	\$15
Certification of licensure history	\$25
Reactivation of license	\$65
Restoration after suspension or revocation	\$65
Approval of continuing education program	[\$65] <u>\$100</u>

(b) The following fees are charged to sustain the operations of the Board:

Biennial renewal of license	[\$75]]\$200
BIENNIAL RENEWAL FEE FOR BIENNIAL PERIOD FEBRUARY 1, 2019 – JANUARY 31, 2021.....	\$125
BIENNIAL RENEWAL FEE FOR BIENNIAL PERIOD FEBRUARY 1, 2021 – JANUARY 31, 2023.....	\$150
BIENNIAL RENEWAL FEE FOR BIENNIAL PERIOD FEBRUARY 1, 2023 – JANUARY 31, 2025, AND EACH BIENNIAL RENEWAL PERIOD THEREAFTER.....	\$175

(c) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the MBLEx shall be responsible for any fees charged by the FSMTB for taking the examination.

[(d) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the NESL, the NCETM or the NCETMB shall be responsible for any fees charged by the NCBTMB for taking the examinations.]

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ATTACHMENT A

List of Public Commenters

List of Public Commenters

State Board of Massage Therapy 16A-724 – Fees

Laura B. Embleton, Government Relations Director
Associated Bodywork & Massage Professionals
Laura@abmp.com
(303) 679-7645

Deborah A. Dunn, President
Lancaster School of Cosmetology and Therapeutic Bodywork
debbie.dunn@lancasterschoolofcometology.com

Tracy J. Becker, Executive Director
Clarion Area Chamber of Business & Industry
650 Main Street
Clarion, PA 16214
tracy@clarionpa.com

Les & Jacki Bauer lesnjackibauer@windstream.net
Renee G. Principe, LMT, BCMT rfgladieux@pressurepositive.com
Kathleen Phillips nowwearesix.katamarie@gmail.com
Julie Read theworkingbodytherapy@gmail.com
Jill Rehrig, PTA/CMT newbegin@ptd.net
Leah Fenimore leahqfenimore@gmail.com
Nathan A. Sanet, LMT, DOMTP CA nsanet@ohwi.org
Lance Blackwell lanceblackwell@gmail.com
Katherine Lease leasekat27@live.com
Beata Horan infernob99@msn.com
Laura J. Stauffer laurajstauffer@gmail.com
Elizabeth Minker theminkers@verizon.net
Sara Gray, LMT hilltopbarefootbodywork@gmail.com
Gina Settembrino ginasettembrino@gmail.com
Rita Ricciardi rrhunder622@gmail.com
Charlene Woodruff Charlene_woodruff@yahoo.com
Nancy Foradora, LMT nforadora@gmail.com
Oksana Harris harris333cleaning@gmail.com
Nancy Chapple, LMT chappletherapy@gmail.com
Lela Rummel lelarummel@gmail.com
Mindy Richards, LMT mindy.richards.lmt@gmail.com
Linda J. Cass, LMT, LE KnotAlways@comcast.net
Sherri Dietz, LMT sherridietz@wellnessmassageworks.com
Zenaida Rodriguez zenaidarodrz23@gmail.com
James Fichter fic1@ptd.net
Lori Suhrbier kneadymom@gmail.com
Traci Geist, LMT cherega@hotmail.com

Kathleen Wayne waynes100@comcast.net
 Jessica Burns jessicaroseburns@hotmail.com
 Vera Weinman-Martin vera@theartandscienceofmassage.com
 Bonita Cassel bonitacassel@gmail.com
 Amber Fox, LMT af2005mt@yahoo.com
 Gabriel Cantillo, LMT gpcantillolmt@gmail.com
 Heather Rodriguez, LMT dhreich@hotmail.com
 Merle Plotkin, LMT merplotkin@gmail.com
 Jung Xu ariel.xu.agrusti@gmail.com
 Amanda H. Fleisher, LMT fpf.massage@gmail.com
 Sarah Carlson, LMT scdancelink@gmail.com
 Kari Barnes-Frank, LMT kariannebarnes@gmail.com
 Michele McKenzie, LMT shelmckenzie@hotmail.com
 Kathy Dalton madisonavsalon@gmail.com
 Ilka Werner ilka7@verizon.net
 Michelle Valeriano michellev@massagetherapy.com
 Tricia Jarrett tatrutt@gmail.com
 Robert Kemler bobnoscar@comcast.net
 Amanda Kiner mandylynn19@gmail.com
 Alan Steele LMT askb91@comcast.net
 Carla Saylor, LMT info@mandarinrosespa.com
 Alisha Corcino alish99@hotmail.com
 Carla Buckley carlabuckley@icloud.com
 Amy Cockroft, LMT amysmassageplace@hotmail.com
 Levi Collins, LMT Collins.levi@gmail.com
 Alyssa Tracy LMT alg0722@gmail.com
 Rosie Rose rosielige@gmail.com
 Donna Mayo donna@mayod.net
 Anita DiFrancesco, LMT info@mobilemassageyoga.com
 Holly L. Donaldson hollylynn دونالدسون@gmail.com
 Jenny Mackley jmackley32@yahoo.com
 Angel Baney angel.baney@gmail.com
 Chelsea Carter, LMT/LE chelseambelle@gmail.com
 Sheena Moser, LMT smoser.soulfulhands@gmail.com
 Jane Hamme janehamme@comcast.net
 Stacy Gonzalez stacybuchter@yahoo.com
 Brenda Packer brenna168816@gmail.com
 Karen Swavely, LMT karen.grill@gmail.com
 Nicole Madsen nikki.madsen.981@gmail.com
 John Rusen jwr8808@yahoo.com
 Heather Strittmatter heather91298@msn.com
 Joan Heim joanheim9@gmail.com
 Nancy Davis, LMT nkdltmt@yahoo.com
 Brooklyn King, LMT bmkmassage@gmail.com
 Carolyn Virostek cvirostek@me.com
 Shawna Gerson shawna44@gmail.com

Sarah Knox, LMT sarahknox57@gmail.com
 Cheryl Matters, LMT cherylmatters@reagan.com
 MaryAnn Carricato, LMT solacepointe@yahoo.com
 Ginger Stegmaier, LMT ginger.stegmaier@gmail.com
 Janet R. Dreher, LMT whahmt676@gmail.com
 Shealyn O'Riordan, LMT zenergyinmotion@gmail.com
 Cindy Leonard cindyleonard317@gmail.com
 Sheryl Goodling Sheryl.goodling@gmail.com
 Jim Stark jstark339@gmail.com
 Andrea Hilborn, LMT messagebyanj@gmail.com
 Steven Fariss stevefariss05@yahoo.com
 Jana Dress, LMT jltwdress@comcast.net
 Corinne Nyce, LMT MsClueso2002@aol.com
 Jennae L. Dungan, LMT jennaedungan@gmail.com
 Curtis Green, LMT curtgreenmt@live.com
 Kathi Jackson, LMT handsforhealing.massage@gmail.com
 Deborah Eisenhart, LMT deisenhart@wellspan.org
 Trella Dubetz, BFA, LMT trelladubetz@gmail.com
 Beth Ryan Fisher, RN, LMT pfisher@npacc.net
 Karen Good, LMT kigood455@gmail.com
 Pam Baynard tbhoffice@yahoo.com
 Patricia Tarbuck, LMT medicinespirithands@yahoo.com
 Jennifer Manicioto jmanicioto@gmial.com
 Danielle Todd spalavielancaster@gmail.com
 Sandra Viscusi, LMT icookgood@aol.com
 Kellen Sobiech, LMT kellenlmt@gmail.com
 Carol Hunt ceehunt202@gmail.com
 Renata Jank jankrena01@comcast.net
 Mary Fitzgerald, LMT get.in.touch@live.com
 Jerry Rizzo, LMT, MFRT JRizzo@FortisInstitute.edu
 Jennifer Johns, LMT jenniferjohnsmassage@gmail.com
 Lisa Miller leelee_3012@yahoo.com
 Allison Breon, LMT dragonstears08@aim.com
 Tiffany Kott ilovesportz@verizon.net
 Carol Fulforth, LMT misscarol126@yahoo.com
 Leah Cannon, LMT iwantfood@gmail.com
 Judy Kingston ralphiebeme@gmail.com
 Kim Hayward cherrired2003@yahoo.com
 Stacy Gibson, LMT stacy@kennettsquaremassage.com
 Jane Miller janemiller68@gmail.com
 Tracie Pletcher traciedragonfly@gmail.com
 Marcia Sorchik, LMT msorch49@gmail.com
 Shawn D. Swank shawn.mt2s@gmail.com
 Sara Zettlemyer SZettlemyer2188@aol.com
 Kiara Klusman kklusman@my.berks.edu
 Stephanie Johnson, LMT sjohnson6968@gmail.com

Jill Anderson-Bloch jabloch11@gmail.com
 Michele Pearson michelemt27@yahoo.com
 Jenn Wheeler, LMT jenn.wheeler@yahoo.com
 Sharon sbpaoli@comcast.net
 Lisa Ogurcak lisaogurcak@comcast.net
 Frederick J. Bungert briarabbit2@yahoo.com
 Tasha Mundy aeninbloom80@yahoo.com
 Ann Smith, LMT alleibigs@hotmail.com
 Donna Blouch, LMT djblouch@gmail.com
 Teena A. Masters, LMT, CST tamasters@comcast.net
 Sarah Fox sarahmfoxlmt@gmail.com
 Charity Taylor, LMT charityeverhart@gmail.com
 Ed Snitko, LMT fitnesswithease@aol.com
 Elizabeth McIntyre, MAS, BSN, LMT everybodytmt@aol.com
 Leanne Fairchok lfairchok@gmail.com
 Shannon S. Harley, LMT sharley@wellspan.org
 Rich Solomon, LMT pavinny@hotmail.com
 Lisa Hill, LMT lhil910@yahoo.com
 Steve Foerst sfoerst.lmt@gmail.com
 Kate Cullen, LMT conceptkate@gmail.com
 W. Neale Lanigan, LMT singewulf@gmail.com
 Pamela Hipp shiningbrightly@att.net
 Anonymous scincl1@verizon.net
 Susan Baatz suziebaatz@gmail.com
 Karen Harvey TranquilTouch4U@hotmail.com
 Cynthia Lombardi cynthealsu@msn.com
 Rita Norton gitathree@aol.com
 Tracey A. Levino talevinolmt@gmail.com
 April Guilherme, LMT april@abitofblisstherapy.com
 Liz Telega degorman8@gmail.com
 Bridgit Martin, LMT b_martin302@comcast.net
 Jennifer Taylor, LMT simplyserenemassage@hotmail.com
 Kristen O'Grady, LMT kristenog99@gmail.com
 Emily Flynn, LMT emilyxfly@aim.com
 Elaine Dellande, LMT edellande@yahoo.com
 Evelyn C. Sistrunk, LMT wellness4lifemassage@yahoo.com
 Chelsea Dease, LMT chelsedease@yahoo.com
 Kathleen Wimmer karw365@gmail.com
 Susan Batten, LMT sueq72@comcast.net
 Ashlee Esplen ashlee.esplen@bc3.edu
 Amy Green, LMT pchacuandmassage@gmial.com
 Stacie M. Gault, LMT staciegault31@gmail.com
 Anessa Graham, LMT graham.anessa@gmail.com
 Stephanie Merenda slm74@msn.com
 Letitia Burke, LMT letitiaburkelmt@gmail.com
 Tom Miller tom@massagesbymiller.com

Leslie Roberts-Welpe leslierwlt@aol.com
 Melissa Leonard, LMT melessa@eastcoastce.com
 David Bender, LMT davebenderbodyworks@gmail.com
 Margaretta Wilcox uconn6528@gmail.com
 Imelda Tim imeldatim@yahoo.com
 Lisa R. Johnson lisardon@verizon.net
 Candace Valdner, LMT cvaldner425@gmail.com
 Norene Good goodnorene@gmail.com
 Rose Linkens rlinkens@gmail.com
 Katie Haunstein, LMT katiehaunstein@gmail.com
 Christopher Kim cmkdbz@aol.com
 Cody Bell codybelllmt@gmail.com
 Lisa Mazzanti lisawray@epix.net
 Joy Wisner joywisner@cloud.com
 Sharon Little calsmm12@gmail.com
 Wylisa Morgan, LMT wylisa.morgan@gmail.com
 Sharon Landis psmassages@gmail.com
 Danielle K. Armstrong daniellekarmstrong@gmail.com
 Kristi Arcement, LMT kmarcement@aol.com
 Matthew Love, LMT younglove987@hotmail.com
 Louise M. York, LMT louiseyork.lmt@gmail.com
 David Bashnick, LMT hvtmaspro@aol.com
 Lisandra Garcia massagetherapybycindy@gmail.com
 Denise Barbieri, LMT dlpowell15@juno.com
 Stephanie Hall, LMT hall.stephanie29@yahoo.com
 Veronica Neri vtrneri@yahoo.com
 Jessica Gasper, LMT gasperfam@gmail.com
 Christopher Deery, LMT chris.deery@gmail.com
 Margaret DeWald magied63@aol.com
 Katy Lee Hartigan hartigankt@gmail.com
 Lynda Like lynda6818@gmail.com
 Rich Sacchetti richmassage@hotmail.com
 Jeanine Larkin citrine59@verizon.net
 Krisann J. Albanese, LMT krisannalbanese@verizon.net
 Keni Jefferson kenijefferson@gmail.com
 Miles Banta milesjbanta@gmail.com
 Jordan Pyfer touchaheart@hotmail.com
 Melisann Jacobsen melisiann@gmail.com
 Cindy Klem cc4relief@yahoo.com
 Jenna L. Esh, LMT JennaLynn2022@hotmail.com
 Nahatai Hall nahataih@gmail.com
 Fred Broadbent fredamtapa@gmail.com
 Melinda Martin mandmmassageworks@gmail.com
 Alex H. alexh9470@gmail.com
 Unsigned lindalou@lmf.net
 Rosanna Smith, LMT rmts2980@comcast.net

Meghan Kurtz knead2breath@gmail.com
 Kimberlee M. Mills, RN, LMT knvmassagetherapy@verizon.net
 Sheetal Contractor, LMT sheetal@solunasolutions.com
 Elizabeth Ann Britt lizann@ptd.net
 Christina Ricupero, LMT pnc9891@gmail.com
 Thomas Evans, LMT tcemassage@yahoo.com
 Jennifer Terry jennshhmt@gmail.com
 Megan Reynolds megansjoy@yahoo.com
 Deborah Kelly dkelly19@comcast.net
 Lara Brusch larahelene@gmail.com
 Tanya Honafius tmhonafius@outlook.com
 Sue Lembeck-Edens, LMT slembeckedens@gmail.com
 Aimee Muzzy aimeebernhardt@yahoo.com
 Helen Marie Traglia ourcircle@verizon.net
 Charles J. Rizio, III riziicharlie@ymail.com
 Joel Heller, LMT asparas@msn.com
 Desiree Climie, LMT des1025@yahoo.com
 Patricia Grabowski, LMT pattigrab@aol.com
 Sharon Anderson hinrg2353@comcast.net
 Laura K. Taylor, LMT laura@taylormadetherapy.com
 Alison Kresge kresge.alison@gmail.com
 Megan Markle, LMT scarletvixen26@yahoo.com
 Lori Barkand lbarkand@outlook.com
 Richelle Garman, LMT holisticharmony5780@yahoo.com
 Deirdre Vanessa Bradley, LMT dbradley2@wellspan.org
 Edwin Vega edwin.vlmt@gmail.com
 Jennifer Keth info@sapphiremoon.biz
 Sandra Arditi sanarditi@gmail.com
 Susan Pantalone, LMT susan64p@gmail.com
 Bernadette M. Elinsky, LMT bme4jabs@gmail.com
 Jennifer Charles, LMT jcharles2@wellspan.org
 Barbara Sands bls47@msn.com
 Mary Oberholzer mvoberholzer@gmail.com
 Patty Tull Planinshek dpcdar19@gmail.com
 Leigh DeTato jnldetato@gmail.com
 Laura Troyer, LMT ltroyer91@gmail.com
 Natalie Kearns nkearns13@verizon.net
 Erica Boyer, LMT erica94gt@hotmail.com
 Rebecca Hepler, LMT rebecca.heplerlmt@yahoo.com
 Samantha Gerlesky, LMT sgerlesky@yahoo.com
 Nancy Sillitti nsillitti@comcast.net
 Janice Ann Seybold, LMT jgaseybold@yahoo.com
 Georgeanna Ledgerwood geopublic@aol.com
 Judy Ellsworth, LMT jlynn62@live.com
 Kay Smith kaysmith73@gmail.com
 Holly Myers, LMT hmyers75096@gmail.com

Doreen voodooe@hotmail.com
 Barbara Wall, LMT barbarawall75@gmail.com
 Joyce Calvitti heronsrest1@gmail.com
 Janine Matus tbhealingarts@gmail.com
 Dorothy Paschall Dejae45@aol.com
 Sherri Hertzog sherrihertzog@gmail.com
 Roxanne Neri, LMT Roxanne.neri@yahoo.com
 Kathy Hoover khoov2@gmail.com
 Barbara H. Teysier teysier@juno.com
 Judith Hendin judith@consciousbody.com
 Wanda Breighner, LMT 4allbelievers@gmail.com
 Lori Zipay, LMT lorizipay@rocketmail.com
 April Whiteley april.whitely2@aol.com
 Rebecca Walton rebeccawalton15@gmail.com
 Ann Smith, LMT wisewomanlmt@gmail.com
 Sarah Mack energyhandstherapy@gmail.com
 Renae Stoskey rensha98@gmail.com
 Michele Pearson michelemt27@yahoo.com
 Kelli Garperi, LMT kelligasper@icloud.com
 Virginia McKisson, LMT gamckisson1@gmail.com
 Sydney Lee sydlee99@gmail.com
 Renee M. Rowe, LMT brwinsegg@comcast.net
 Lisa Elder angel81869@hotmail.com
 Dana Thompson danathompson1797@yahoo.com
 Shana Dickison lighthouse907@yahoo.com
 Barbara Darnell bodywisdompa@gmail.com
 Hal Kester kester.hw@gmail.com
 Stephanie L. Weaver, LMT slw7833@gmail.com
 Norene Good goodnorene@gmail.com
 Bob Wolfe chiguypa@gmail.com
 Jan Bourdelle janbourdelle@aol.com
 Sharon Bennett, LMT sharon@energeticbodywork.com
 Marianne Melino shiatsumm@gmail.com
 Jane Stinson janeftinson@gmail.com
 Eric Maier, LMT goawaymusclepain@gmail.com
 Coral Still-Glosser, LMT coral1051@gmail.com
 Jonathan Lund, LMT jl8843@gmail.com
 Karen Bond, RN, LMT karenrbond@yahoo.com
 Maxine Gendelman maxinegendelman@gmail.com
 Sharon DePolo, LMT sdp11911@gmail.com
 Crystal Brown crystalbrown@massagetherapy.com
 Linda J. Kulp, LMT dmtg601@yahoo.com
 Peter Santos, LMT petersantos@gmail.com
 Leah Rethage leahrethage@hotmail.com
 Marie Blackwell reee13bz@yahoo.com
 Linda B. Hemmes, LMT linda.hemmes@gmail.com

Nhan Diep xieyun006@gmail.com
 Trudy Dixon, LMT livinginspiredmassage@gmail.com
 Angela Porter angela_15301@msn.com
 Bonnie Callahan bonnieecallahan@gmail.com
 Frank fran@life4orcetouch.com
 Sara Monfre saramo12@zoominternet.net
 Deborah LaBelle, LMT debbielee70@gmail.com
 Barbara Jean Bibber, LMT JBibberSr@msn.com
 Benjamin Hamilton benjyh03@gmail.com
 Christine Sabin cfrost669@yahoo.com
 Doreena Balestreire doreenajune@gmail.com
 Valerie Rosenberger valerie.rosenberger@gmail.com
 Patricia Morris, LMT totosmom@ptd.net
 Amber Smith, LMT carpediem.amber@hotmail.com
 Kara Greene kkgreene88@gmail.com
 Kinsey Gensel, LMT Kinsey@kinseymassagetherapy.com
 Patricia Ream patriciaream41@gmail.com
 Toni Sweeney itsy33@gmail.com
 Regina M. Klunk-Rager rkragerlmt@gmail.com
 Tina Robinson tinarobinson920@gmail.com
 Sarah Takacs, LMT takacsa@yahoo.com
 Roberta MacLean thehealingconnection@verizon.net
 Lisa Kessler ljckessler@yahoo.com
 Samira Muhammad samiramhammad89@gmail.com
 Richard Keiper, LMT intouchwithyou@verizon.net
 Maryann Parker, LMT maruskapottery@gmail.com
 Jeb Malcolm, LMT jeb.malcolm@yahoo.com
 Barb Santana bsantana54@comcast.net
 Kandace Helmuth, LMT kandace@ptd.net
 Bobbi Calvert, LMT messagebybobbi@gmail.com
 Erin Gingrich bu.tifulyou@yahoo.com
 Mariah Pramick mariahachey@gmail.com
 Jennifer Panza, LMT jenpanza@me.com
 Katie Cassidy ktcassidy20@aol.com
 Casandra Kemmler, LMT casandrakemmler@gmail.com
 Roselin Morales roselinmorales@ymail.com
 Charles Mittnacht, LMT chuck@mittnachtgraphics.com
 Shawna shawna44@gmail.com
 Connie Kates-Williams, LMT kalimeekal@gmail.com
 Kathleen Keys ktrainor1068@gmail.com
 Tamara L. Luffy, LMT tluffy@vahoo.com
 Jennifer Wagman, LMT jwagman@wellspan.org
 Samantha Bases samantha.bases@mccann.edu
 Kathleen McLane kmclane717@comcast.net
 Bridget Washock bmwashock@juno.com
 Ryan Mavin rmavin1@gmail.com

Nita Keesler, LMT nita.keesler11@gmail.com
 Julie Reinhart, LMT julie@santora.us
 Michelle Barker, LMT chell412@yahoo.com
 Grace Astraea timespaceone@gmail.com
 Beth Heckman bethheckman@comcast.net
 Fallon Postell, LMT fspostell@yahoo.com
 Stephanie Shull sofiasangel@gmail.com
 Virginia Byrne vsb49@live.com
 Jean Stoner, LMT jibagwan@gmail.com
 Ani Ukullshot ani_ukullshot16@yahoo.com
 Nancy Stawitz Barnhart nancy@kikadoju.com
 Jennifer Kyzer jenniferkyzer@gmail.com
 Johnathan Nidock, LMT jonathan2n@aol.com
 Melissa D. Fell, LMT fellfamily@aol.com
 Helene Halstuch helenehalstuch@gmail.com
 Holly Alger Nypunk18@yahoo.com
 Kaylee Mundorff kaymun1996@gmail.com
 Claudia Ager claudjager@gmail.com
 Melora McNutt meloramcnutt@icloud.com
 Raymond Lavery chestergoldwing@yahoo.com
 Marcie Albertson, LMT mschlener39@gmail.com
 Rosanna Smith, LMT rmts2980@comcast.net
 Lauren Miller lauren_200610@yahoo.com
 Wendi White, LMT FibroFit@hotmail.com
 Linda Rose, LMT lrosepa@yahoo.com
 Missy Straub Jacobs missyjacobs@live.com
 Cornia Schad, LMT corinaschad@gmail.com
 Anne Mulhern, LMT annegnulhern@gmail.com
 Barb Sands bls47@msn.com
 Adrienne Dennis, LMT petunia304@yahoo.com
 Logan Kai Kotter, LMT lkk2@students.ptcollege.edu
 Mellissa Winter mellissawinter@gmail.com



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MASSAGE THERAPY

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7155

October 10, 2018

The Honorable George D. Bedwick, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Massage Therapy
16A-724 - FEES

Dear Chairman Bedwick:

Enclosed is a copy of a final rulemaking package of the State Board of Massage Therapy pertaining to Fees.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in cursive script that reads "Becky D. Lesik".

Becky D. Lesik, Chairperson
State Board of Massage Therapy

TMD:mcm

Enclosure

cc: Ian J. Harlow, Commissioner of
Professional and Occupational Affairs
Kalonji Johnson, Director of Policy, Department of State
Cynthia Montgomery, Deputy Chief Counsel
Department of State
Thomas M. Davis, Counsel
State Board of Massage Therapy
State Board of Massage Therapy

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

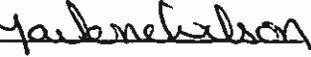
I.D. NUMBER: 16A-724
SUBJECT: Fees
AGENCY: DEPARTMENT OF STATE
 State Board of Massage Therapy

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Disapproved Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 OCT 10 2018
 Independent Regulatory
 Review Commission

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
<i>HOUSE COMMITTEE ON PROFESSIONAL LICENSURE</i>		
10/10/18		MAJORITY CHAIR <u>Mark T. Mustio</u>
10-10-18		MINORITY CHAIR <u>Harry A. Readshaw</u>
<i>SENATE COMMITTEE ON CONSUMER PROTECTION AND PROFESSIONAL LICENSURE</i>		
10/10/18		MAJORITY CHAIR <u>Robt. Tomlinson</u>
10/10		MINORITY CHAIR <u>Lisa M. Boscola</u>
10/10/18		<i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>
_____	_____	<i>ATTORNEY GENERAL (for Final Omitted only)</i>
_____	_____	<i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i>