

DEPARTMENT OF ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
5300 Board of Massage and Bodywork
24 DE Admin. Code 5300
Statutory Authority: 24 Delaware Code,
Section 5306(1) (24 Del.C. §5306(1))

PUBLIC NOTICE

PLEASE TAKE NOTICE, pursuant to 29 **Del.C.** Chapter 101 and 24 **Del.C.** Section 5306(1), the Delaware Board of Massage and Bodywork proposes to revise its rules and regulations. The proposed revisions implement changes to the rules necessary to conform to the statutory changes resulting from House Bill 208 as amended by House Amendment No. 1 and Senate Amendment No.1. The revisions clarify the requirements of the change from a 100 hour course to a 300 hour course for certification as a massage technician; the requirements for temporary massage technician certification; incorporate continuing education requirements for renewal of lapsed licenses; and outline the requirements for placing a license on inactive status. In addition, the Board is proposing to revise the rules on continuing education to require that all continuing education must be pre-approved by the Board.

A public hearing will be held on the proposed Rules and Regulations on Thursday, October 7, 2004 at 2:00 p.m. in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, 19904.

Any written comments should be submitted to the Board in care of Caitlin Mears, Administrative Specialist, Division of Professional Regulation, at the above address. The final date to submit written comments shall be at the scheduled public hearing.

This notice will be published in two newspapers of general circulation not less than twenty (20) days prior to the date of the hearing.

The proposed amendments are set forth below:

1.0 Definitions and General Definitions

1.1 The term "500 hours of supervised in-class study" as referenced in 24 **Del.C.** §5308(a)(1) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a curriculum that is substantially the same as referenced in 24 **Del.C.** §5308(a)(1) and which includes hands-on technique and contraindications as they relate to massage and bodywork. More than one school or approved program of massage or bodywork therapy may be attended in order to accumulate the total 500 hour requirement.

1.2 The term a "~~400~~ 300 - hour course of supervised in-class study of massage" as referenced in 24 **Del.C.** §5309(a)(1) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a ~~400 300~~ hour course which includes ~~hands-on technique and theory, and anatomy, physiology, and contraindications as they relate to massage and bodywork~~ no less than sixty hours of anatomy and physiology, one hundred-forty hours of theory and technique and one hundred hours of elective courses in the field of massage therapy as referenced in 24 **Del.C.** §5309(a)(1).

1.2.1 The ~~400 300~~ hour course must be a unified introductory training program in massage and bodywork, including training in the subjects set forth in Rule ~~1-2-1.4~~. The entire ~~400 300~~ hour course must be taken at one school or approved program. The Board may, upon request, waive the "single school" requirement for good cause or hardship, such as the closure of a school.

1.3 The term a "200 hour course of supervised in-class study of massage" as referenced in 24 **Del.C.** §5309(b) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a 200 hour course which includes no less than fifty hours of anatomy and physiology, one hundred-ten hours of theory and technique, twenty- five hours of ethics, law, and contraindications and fifteen hours of elective courses in the field of massage therapy as referenced in 24 **Del.C.** §5309(b).

1.3 ~~4~~ The "practice of massage and bodywork" includes, but is not limited to, the following modalities:

- Acupressure
- Chair Massage
- Craniosacral Therapy
- Deep Tissue Massage Therapy

Healing Touch
Joint Mobilization
Lymph Drainage Therapy
Manual Lymphatic Drainage
Massage Therapy
Myofascial Release Therapy
Neuromuscular Therapy
Orthobionomy
Process Acupressure
Reflexology
Rolfing
Shiatsu
Swedish Massage Therapy
Trager
Visceral Manipulation

1.4 ~~5~~ The practice of the following modalities does not constitute the “practice of massage and bodywork”:

Alexander Technique
Aroma therapy
Feldenkrais
Hellerwork
Polarity Therapy
Reiki
Shamanic Techniques
Therapeutic Touch

3 DE Reg. 1516 (5/1/00)

4 DE Reg. 1245 (2/1/01)

2.0 Filing of Application for Licensure as Massage/Bodywork Therapist

2.1 A person seeking licensure as a massage/bodywork therapist must submit a completed application on a form prescribed by the Board to the Board office at the Division of Professional Regulation, Dover, Delaware. Each application must be accompanied by (1) a copy of a current certificate from a State certified cardiopulmonary resuscitation program as required by 24 **Del.C.** §5308(3); and (2) payment of the application fee established by the Division of Professional Regulation pursuant to 24 **Del.C.** §5311.

2.2 In addition to the application and materials described in 2.1 of this Rule, an applicant for licensure as a massage/bodywork therapist shall have (1) each school or approved program of massage or bodywork where the applicant completed the hours of study required by 24 **Del.C.** §5308(a)(1) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed; and (2) Assessment Systems, Incorporated or its predecessor, submit to the Board verification of the applicant's score on the written examination described in Rule 3.0 herein.

2.3 The Board shall not consider an application for licensure as a massage/bodywork therapist until all items specified in 2.1 and 2.2 of this Rule are submitted to the Board's office.

2.3.1 The Board may, in its discretion, approve applications contingent on receipt of necessary documentation. If the required documentation is not received within 120 days from the date when the application is first reviewed by the Board, the Board will propose to deny the application.

2.3.2 If an application is complete in terms of required documents, but the candidate has not responded to a Board request for further information, explanation or clarification within 120 days of the Board's request, the Board will vote on the application as it stands.

2.4 Renewal. Applicants for renewal of a massage/bodywork therapist license shall submit a completed renewal form, renewal fee, proof of continuing education pursuant to Rule ~~6~~ 7.0 and a copy of a current certificate from a State certified cardiopulmonary resuscitation program. License holders shall be required to maintain current CPR certification throughout the biennial licensure period.

4 DE Reg. 1245 (2/1/01)

3.0 Examination

The Board designates the National Certification Examination administered by the National Certification Board for Therapeutic Massage and Bodywork ("NCBTMB") as the written examination to be taken by all persons applying for licensure as a massage/bodywork therapist. The Board will accept as a passing score on the exam the passing score established by the NCBTMB.

4.0 Application for Certification as Massage Technician

4.1 A person seeking certification as a massage technician must submit a completed application on a form prescribed by the Board to the Board office at the Division of Professional Regulation, Dover, Delaware. Each application must be accompanied by (1) a copy of current certificate from a State certified cardiopulmonary resuscitation program as required by 24 **Del.C.** §5309(a)(2); and (2) payment of the application fee established by the Division of Professional Regulation pursuant to 24 **Del.C.** §5311.

4.2 In addition to the application and materials described in 4.1 of this Rule, an applicant for certification as a massage technician shall have the school or approved program of massage or bodywork therapy where the applicant completed the hours or study required by 24 **Del.C.** §5309(a)(1) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed.

4.2.1 An applicant for a temporary massage technician certification, in addition to the application and materials described in 4.1 of this Rule, shall have the school or approved program of massage or bodywork therapy where the applicant completed the hours or study required by 24 **Del.C.** §5309(b) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed.

4.3 The Board shall not consider an application for certification as a massage technician until all items specified in 4.1 and 4.2 of this Rule are submitted to the Board's office.

4.3.1 The Board may, in its discretion, approve applications contingent on receipt of necessary documentation. If the required documentation is not received within 120 days from the date when the application is first reviewed by the Board, the Board will propose to deny the application.

4.3.2 If an application is complete in terms of required documents, but the candidate has not responded to a Board request for further information, explanation or clarification within 120 days of the Board's request, the Board will vote on the application as it stands.

4.4 Renewal. Applicants for renewal of a massage technician certificate shall submit a completed renewal form, renewal fee, proof of continuing education pursuant to Rule ~~6.0-7.0~~ and a copy of a current certificate from a State certified cardiopulmonary resuscitation program. Certificate holders shall be required to maintain current CPR certification throughout the biennial licensure period. Temporary massage technician certificates are valid for no more than one (1) year and may not be renewed or reissued pursuant to the provision of 24 **Del.C.** §5309(b).

3 DE Reg. 1516 (5/1/00)

4 DE Reg. 1245 (2/1/01)

5.0 Expired License or Certificate

An expired license as a massage/bodywork therapist or expired certificate as a massage technician, excluding temporary massage technician certificates, may be reinstated within one (1) year after expiration upon application and payment of the renewal fee plus a late fee as set by the Division of Professional Regulation, and submission of documentation demonstrating compliance with the continuing education requirements of Rule 7.0.

5 DE Reg. 827 (10/01/01)

6.0 Inactive Status

6.1 A licensee asking to have his or her license placed on inactive status must notify the Board of his/her intention to do so in writing prior to the expiration of his/her current license. Holders of temporary massage technician certificates are not eligible for inactive status.

6.2 A licensee on inactive status seeking to re-enter practice must notify the Board in writing of his/her intention, pay the appropriate fee, and provide the Board with documentation demonstrating compliance with the continuing education hours required by Rule 7.0.

6.2.0 Continuing Education

6.2.1 Hours required. For license or certification periods beginning September 1, 2000~~4~~ and thereafter, each massage/bodywork therapist shall complete twenty-four (24) hours of ~~acceptable~~ Board approved continuing education during each biennial licensing period, except as otherwise provided in these Rules and Regulations. Each massage technician shall complete twelve (12) hours of acceptable continuing education during each biennial licensing period, except as otherwise provided in these Rules and Regulations. Completion of the required

continuing education is a condition of renewing a license or certificate. Hours earned in a biennial licensing period in excess of those required for renewal may not be credited towards the hours required for renewal in any other licensing period.

6 7.1.1 Calculation of Hours. For academic course work, correspondence courses or seminar/workshop instruction, one (1) hour of acceptable continuing education shall mean 50 minutes of actual instruction. One (1) academic semester hour shall be equivalent to fifteen (15) continuing education hours; one (1) academic quarter hour shall be equivalent to ten (10) continuing education hours.

6 7.1.2 If during a licensing period an individual certified by the Board as a massage technician is issued a license as a massage and bodywork therapist, the continuing education requirement for that licensing period is as follows:

6 7.1.2.1 If the license is issued more than twelve (12) months prior to the next renewal date, the licensee shall complete twenty-four (24) hours of acceptable continuing education during the licensing period.

6 7.1.2.2 If the license is issued less than twelve (12) months prior to the next renewal date, the licensee shall complete twelve (12) hours of acceptable continuing education during the licensing period.

6 7.2 Proration. Candidates for renewal who were first licensed or certified twelve (12) months or less before the date of renewal are exempt from the continuing education requirement for the period in which they were first licensed or certified.

6 7.3 Content.

6 7.3.1 Except as provided in Rule 6 7.3.2, continuing education hours must contribute to the professional competency of the massage/bodywork therapist or massage technician within modalities constituting the practice of massage and bodywork. Continuing education hours must maintain, improve or expand skills and knowledge obtained prior to licensure or certification, or develop new and relevant skills and knowledge. For each biennial licensing period, massage therapists must complete at least eighteen of the required twenty-four hours of continuing education hours in supervised in-class hands-on study of the “practice of massage and bodywork” as defined in Rule 1.34. For each biennial licensing period, massage technicians must complete at least nine of the required twelve hours of continuing education hours in supervised in-class hands-on study of the “practice of massage and bodywork” as defined in Rule 1.34.

6 7.3.2 For each biennial licensing period, massage therapists may complete (but are not required to complete) up to six hours of the required twenty-four hours of continuing education hours in any combination of the areas and methods listed in Rules 6 7.3.2.1 through 6 7.3.2.5. In each biennial licensing period, massage technicians may complete (but are not required to complete) up to three hours of the required twelve hours of continuing education hours in any combination of the areas and methods listed in Rules 6 7.3.2.1 through 6 7.3.2.6.

6 7.3.2.1 Courses in modalities such as are listed in Rule 1.45, which are modalities other than in the practice of massage and bodywork

6 7.3.2.2 Personal growth and self-improvement courses

6 7.3.2.3 Business Management Courses

6 7.3.2.4 Courses taught by correspondence or mail

6 7.3.2.5 Courses taught by video, teleconferencing, video conferencing or computer.

6 7.3.2.6 Courses in anatomy or physiology

6 7.4 Board approval.

6.4.1 ~~“Acceptable continuing education” shall include any continuing education programs meeting the requirements of Rule 6.3 and offered or approved by the following organizations:~~

6 7.4.1.1 ~~NCBTMB~~

6 7.4.1.2 ~~American Massage Therapy Association~~

6 7.4.1.3 ~~Association of Oriental Bodywork Therapists of America~~

6 7.4.1.4 ~~Association of Bodywork and Massage Practitioners~~

6 7.4.1.5 ~~Delaware Nurses Association~~

6.4.2 7.4.1 ~~Other~~ All continuing education must be pre-approved by the Board. ~~Continuing education programs or providers may~~ must apply for pre-approval of continuing education hours by submitting a written request to the Board which includes the program agenda, syllabus and time spent on each topic, the names and resumes of the presenters and the number of hours for which approval is requested. The Board reserves the right to approve less than the number of hours requested.

6.4.3 7.4.2 Self-directed activity: The Board may, upon request, review and approve credit for self-directed activities, including, but not limited to, teaching, research, preparation and/or presentation of professional

papers and articles. A licensee must obtain pre-approval of the Board prior to undertaking the self-directed activity in order to assure continuing education credit for the activity. Any self-directed activity submitted for approval must include a written proposal outlining the scope of the activity, the number of continuing education hours requested, the anticipated completion date(s), the role of the licensee in the case of multiple participants (e.g. research) and whether any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee.

~~6.4.4~~ 7.4.3 The Board may award additional continuing education credits, on an hour for hour basis, to continuing education instructors for the first-time preparation and presentation of an approved continuing education course for other practitioners, to a maximum of 6 additional hours. (e.g. an instructor presenting a 8 hour course for the first time may receive up to 6 additional credit hours for preparation of the course). This provision remains subject to the limitations of Rule ~~6~~ 7.3.2.

~~6~~ 7.5 Reporting.

~~6~~ 7.5.1 For license or certification periods beginning September 1, 2000~~4~~ and thereafter, each candidate for renewal shall submit a summary of their continuing education hours, along with any supporting documentation requested by the Board, to the Board on or before May 31 of the year the license or certification expires. No license or certification shall be renewed until the Board has approved the required continuing education hours or granted an extension of time for reasons of hardship. The Board's approval of a candidate's continuing education hours in a particular modality does not constitute approval of the candidate's competence in, or practice of, that modality.

~~6~~ 7.5.2 If a continuing education program has already been approved by the Board, the candidate for renewal must demonstrate, at the Board's request, the actual completion of the continuing education hours by giving the Board a letter, certificate or other acceptable proof of attendance provided by the program sponsor.

~~6~~ 7.5.3 If a continuing education program has not already been approved by the Board, the candidate for renewal must give the Board, at the Board's request, all of the materials required in Rule ~~6~~ 7.4.2 and demonstrate the actual completion of the continuing education hours by giving the Board a letter, certificate or other acceptable proof of attendance provided by the program sponsor.

~~6~~ 7.6 Hardship. A candidate for renewal may be granted an extension of time in which to complete continuing education hours upon a showing of unusual hardship. "Hardship" may include, but is not limited to, disability, illness, extended absence from the jurisdiction and exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing or certification period for which it is made. If the Board does not have sufficient time to consider and approve a request for hardship extension prior to the expiration of the license, the license will lapse upon the expiration date and be reinstated upon completion of continuing education pursuant to the hardship exception. The licensee may not practice until reinstatement of the license.

7.7 Continuing Education Requirements for Reinstatement of a Lapsed License. Unless extended by the Board for hardship as defined in Rule 7.6, and subject to the one (1) year limitation set forth in Rule 5.0, a massage therapist applying for reinstatement of a lapsed license must provide to the Board adequate proof of the satisfactory completion of twenty-four (24) hours of Board approved continuing education within the immediately preceding two (2) year period prior to the date of application for reinstatement. A massage technician applying for reinstatement of a lapsed license must provide to the Board adequate proof of the satisfactory completion of twelve (12) hours of Board approved continuing education within the immediately preceding two (2) year period prior to the date of application for reinstatement. Continuing education hours required for reinstatement of a lapsed license may not be credited towards the hours required for renewal in any other licensing period.

7.7.1 A massage therapist who has let his/her license lapse for more than one (1) year and is ineligible for reinstatement and therefore required to submit a new application shall not be permitted to circumvent continuing education requirements. The massage therapist must provide to the Board adequate proof of the satisfactory completion of twenty-four (24) hours of Board approved continuing education within the immediately preceding two (2) year period prior to the date of the new application. A massage technician who has let his/her license lapse for more than one (1) year and is ineligible for reinstatement and therefore required to submit a new application shall not be permitted to circumvent continuing education requirements. The massage technician must provide to the Board adequate proof of the satisfactory completion of twelve (12) hours of Board approved continuing education within the immediately preceding two (2) year period prior to the date of the new application. Continuing education hours required to be filed with a new application may not be credited towards the hours required for renewal in any other licensing period.

7.8 Continuing Education Requirements for Licensees Returning from Inactive Status. Unless extended by the Board for hardship as defined in Rule 7.6, a massage therapist returning from inactive status must provide notice to the Board as set forth in Rule 6.2 and must provide to the Board adequate proof of the satisfactory completion of twenty-four (24) hours of Board approved continuing education within the immediately preceding two (2) year period prior to the date of the notice to return to active. A massage technician returning from inactive status must provide

notice to the Board as set forth in Rule 6.2 and must provide to the Board adequate proof of the satisfactory completion of twelve (12) hours of Board approved continuing education within the immediately preceding two (2) year period prior to the date of the notice to return to active status. Continuing education hours required to return to active status may not be credited towards the hours required for renewal in any other licensing period.

3 DE Reg. 1516 (5/1/00)

4 DE Reg. 1245 (2/1/01)

4 DE Reg. 1944 (6/1/01)

5 DE Reg. 1409 (1/1/02)

7 DE Reg. 40 (7/1/03)

7 8.0 Scope of Practice

Licensed massage/bodywork therapist and certified massage technicians shall perform only the massage and bodywork activities and techniques for which they have been trained as stated in their certificates, diplomas or transcripts from the school or program of massage therapy where trained.

8 9.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

8 9.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

8 9.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

8 9.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

8 9.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

8 9.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.

8 9.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

8 9.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

8 9.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of

Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

§ 9.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

§ 9.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

§ 9.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

§ 9.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

§ 9.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

§ 9.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

§ 9.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

§ 9.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

§ 9.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

§ 9.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.