

BEFORE THE BOARD OF MASSAGE THERAPY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
[Proposed New Rule IV, MAR Notice) PROPOSED AMENDMENT AND
No. 24-155-1] definitions, and the) ADOPTION
adoption of NEW RULES I and II,)
pertaining to licensure requirements)

TO: All Concerned Persons

1. On April 1, 2010, at 9:00 a.m., a public hearing will be held in room 430, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Massage Therapy (board) no later than 5:00 p.m., on March 26, 2010, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdlmt@mt.gov.

GENERAL STATEMENT OF REASONABLE NECESSITY: The 2009 Montana Legislature enacted Chapter 451, Laws of 2009 (House Bill 662), creating the Board of Massage Therapy (board) and setting forth the requirements for the licensure and regulation of massage therapists. The bill was signed by the Governor and became effective on May 5, 2009.

The board determined it is reasonable and necessary to adopt new rules to further implement the legislation. New Rule I sets forth the requirements for licensure by endorsement. The board has already proposed requirements for licensure by examination and grandfather clause in MAR Notice No. 24-155-1, which was published January 28, 2010. The board is proposing New Rule II to specify acceptable curriculum guidelines for massage therapy programs to comply with 37-33-502, MCA, for applicants for licensure by examination.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

[Proposed New Rule IV, MAR Notice No. 24-155-1] DEFINITIONS (1)
through (4) remain the same.

(5) "School-sanctioned activity" for purposes of 37-33-404, MCA, means an activity:

(a) that is approved, endorsed, or provided by the board-approved program in which the student is enrolled;

(b) the purpose of which is to allow students to practice their massage therapy skills under particular, limited circumstances; and

(c) that does not allow or facilitate a student to establish a massage therapy practice or avoid licensure.

(6) "Supervision," for the purposes of 37-33-404, MCA, means the oversight and review of the student's work to a degree necessary to ensure the protection of the health, safety, and welfare of the public, but not to a degree less than the immediate and constant availability of the supervisor via telephone, throughout the school-sanctioned activity.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-33-404, MCA

REASON: The board is amending this rule to further define terms used in 37-33-404, MCA. The board determined it is reasonably necessary to add definitions of school-sanctioned activity and supervision to clarify the exemption from licensure for massage therapy students.

4. The proposed new rules provide as follows:

NEW RULE I LICENSURE BY ENDORSEMENT (1) All applicants for licensure by endorsement shall submit a completed application on a form prescribed by the department.

(2) The application shall be deemed incomplete until all of the following are received by the board, in conjunction with the application:

(a) the appropriate fee;

(b) a copy of a certified transcript or certificate of completion sent directly from the official custodian of the record, evidencing to the board's satisfaction that the applicant has a high school diploma or its equivalent;

(c) proof that the applicant is eighteen years of age or older;

(d) two letters attesting to the good moral character of the applicant, submitted directly to the board office by individuals who are not the applicant's family members; and

(e) verification of an active license, certification, or registration in good standing from another state or jurisdiction, whose current requirements include each of the following:

(i) a minimum of 500 hours of study that meets or exceeds the curriculum guidelines established by any program or organization accredited by the national commission for certifying agencies or its equivalent or successor; and

(ii) a passing score on either the MBLEx, NCETMB, or the NCETM examination, or a state examination deemed to be equivalent.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-131, 37-1-304, 37-33-502, MCA

NEW RULE II CURRICULUM GUIDELINES (1) The Board of Massage Therapy has recognized the program curriculum guidelines of the National Certification Board for Therapeutic Massage and Bodywork as meeting or exceeding the requirements of 37-33-502, MCA. The recognized curriculum guidelines are as follows:

- (a) 200 hours of in-class and instructor-supervised massage and bodywork assessment, theory, and application instruction;
- (b) 125 hours of instruction on the body systems (anatomy, physiology, and kinesiology);
- (c) 40 hours of pathology;
- (d) ten hours of business and ethics instruction (a minimum of six hours in ethics); and
- (e) 125 hours of instruction in an area or related field that completes the massage program of study.

(2) Other curriculum guideline submissions will be evaluated by the board for compliance with 37-33-502, MCA, on a case-by-case basis.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-131, 37-33-502, MCA

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdlmt@mt.gov, and must be received no later than 5:00 p.m., April 9, 2010.

6. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.massagetherapists.mt.gov. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena,

Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdlmt@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on November 16, 2009, by telephone.

9. Tyler Moss, attorney, has been designated to preside over and conduct this hearing.

BOARD OF MASSAGE THERAPY
MICHAEL EAYRS, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 1, 2010