

## DEPARTMENT OF HEALTH, STATE BOARD OF HEALTH

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**SUBJECT:** Massage Therapy

**DESCRIPTION:** These rule amendments clarify prohibited criminal offenses and make changes to comply with Acts 135, 136, 725, 746, 748, and 811 of 2021.

### Summary of Proposed Changes

#### Section 2

- Added definition of “apprenticeship” to comply with Act 811 of 2021.
- Added definitions of “automatic licensure,” “uniformed service member,” and “uniformed service veteran” to comply with Act 135 of 2021.
- Added definition of “owner.”

#### Section 3: Policies

- Added fee waiver language to comply with Act 725 of 2021.
- Added Earn and Learn language to comply with Act 811 of 2021.

#### Section 6: Reciprocity, Temporary License, and Military Licensure

- Added uniformed service member, veterans, and spouses language to comply with Act 135 of 2021.

#### Section 7: Continuing Education

- Added language to address state of disaster emergency language to temporarily suspend requirements for in-person continuing education hours. This language was added in response to industry concern.

#### Section 9: Massage Therapy Schools and Postsecondary Massage Therapy Schools

- Added language for purchase of an existing Massage Therapy School.
- Added language regarding relocation of a Massage Therapy School or Postsecondary Massage Therapy School.

**PUBLIC COMMENT:** A public hearing was held on this rule on May 23, 2022. The public comment period expired on May 23, 2022. The agency provided a summary of the public comments it received and its responses to those comments. Due to its length, this summary is attached separately.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

**1.** The questionnaire indicates the rules were amended in part to comply with Act 136 (criminal offenses) and Act 746 (licensure for individuals with work permits), but I don’t see any relevant changes in the markup. Were these changes withdrawn or is my markup incorrect? **RESPONSE:** Act 136 expanded the disqualifying offenses to include those convictions that occurred in other states and added prostitution to the disqualifying

offenses for disciplinary actions for massage therapists. Act 746 addresses granting licensure for those individuals with “work permits.” In review of the proposed Rules, I believe these Acts were included on the questionnaire erroneously, as we determined they do affect the administration of the industry licensing but they did not require a revision of the Rules.

2. Section 9(3)(b)(8) charges a \$425 registration fee for a relocated school. Does the Department consider this an establishment fee under § 17-86-306(f)(1), or does this fee come from somewhere else? **RESPONSE:** Yes, the relocation fee falls under establishment fee, as the administrative tasks necessary to review relocation application and inspect the new facilities are correlative to a new school application with only nominal differences.

The proposed effective date is December 31, 2022.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The State Board of Health may promulgate and enforce reasonable rules for the purpose of carrying out Title 17, Chapter 86 of the Arkansas Code, regarding massage therapists. This rule implements Acts 135, 725, 748, and 811 of 2021.

Act 135, sponsored by Senator Ricky Hill, established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021. Under the Act, “[a]n occupational licensing entity shall grant automatic occupational licensure to” certain specified individuals. *See Ark. Code Ann. § 17-4-105, as created by Act 135.*

Act 725, sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals. The Act required licensing entities to promulgate rules as necessary for the Act’s implementation. *See Ark. Code Ann. § 17-5-105(2), as amended by Act 725.*

Act 748, sponsored by Representative Bruce Cozart, amended occupational criminal background checks.

Act 811, sponsored by Representative Joshua Bryant, created the Earn and Learn Act and allowed individuals to work and earn a paycheck while also fulfilling licensing requirements and gaining the skills to fill the needs of an expanding workforce. The Act required all licensing entities covered by the Act to “promulgate rules necessary to implement” the Act. Act 811, § 2.





# Arkansas Department of Health

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**Governor Asa Hutchinson**  
**Renee Mallory, RN, BSN, Interim Secretary of Health**  
**Jennifer Dillaha, MD, Director**

## PUBLIC COMMENT REPORT Proposed Rules for Massage Therapy

**Public comment period expired May 23, 2022 at 10:00 a.m.**

**Public hearing held on May 23, 2022 from 9:00 a.m. to 10:00 a.m.**

### PUBLIC COMMENTS:

*Sybil Davis*

*Healing Therapy & Education*

*Received written comments on April 7, 2022, May 3, 2022, May 3, 2002, May 4, 2022, May 6, 2022, May 13, 2022, May 22, 2022, and appeared at the public hearing on May 23, 2022*

- 4/7/2022
  - I really appreciate your call with me this afternoon to clarify the processes of the ability of US Department of Labor Apprenticeship Program students being able to test at MBLEx. MBLEx ( Federation of State Massage Therapy Boards) should test Arkansas Students for National testing if they have had the training of requirements and Arkansas's Massage Therapy Law Curriculum taught. I am sorry if I was short with you, however I do not like being told Arkansas would hold up testing, from other sources, and I believe Federal Programs can have a place in some parts of Arkansas. The last I heard we were still part of the Federal Government and had not jumped ship yet.
- 5/3/2022
  - [W]ith the new rules and regulations, US Department of Labor Apprenticeship Program and during the year of training the students are tested and Certified with the US Department of Labor and meet all six core competencies and the 500 hours of Arkansas Curriculum for education and are tested with the School and US Dept of Labor Program which will be the sponsor of this program. The MBLEx (Massage and Bodyworkers License Exam will NOT be necessary unless they want to do that to go out of State. However, with the US Department of Labor Apprenticeship Process they then can and should be licensed with Arkansas Department of Health with the paperwork from and with the US Department of Labor workers Certification process and the sponsoring school. This is the purpose of Learn and Earn Act and programs from Legislative Processes. The processes are on the move here with jobs for Arkansas and advancement of Certified Massage Therapist and the need to work for the advancement of more people working and citizens being able to have spa and healthcare treatments and therapy.
  - Wrong information has been placed on the web from ABMP, one of the national associations of Massage stating with the new proposed rules and regulations a relocation of a massage therapy school requires a registration fee of \$450. I have a clarification of this wrong information from reading again the new proposed rules and regulations which I am very very very pleased with especially the apprenticeship part. I have helped write and been approved for Certified Massage Therapist Apprenticeship Programs with the US Department of Labor in Arkansas with the goal of supplying therapist with the great shortage in our workforce for massage therapists and the work which needs to be done in the growing healthcare and spa field for this very important therapy. . I do not want to trigger the process and new rules and regulations have to start again and have to go to Governor's office and wait forever for rules and regulations changes.





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- 5/4/2022
  - However, nowhere in our current law is MBLEx mentioned. Many of the National Organizations try for testing and would like to collect the outrageous fee rates. A few years ago, MBLEx had a deal going to try and be the only test. The option is spelled out plainly in our current law where the decision can be with the Arkansas Department of Health and the kind of examination to be administered for licensure of a Massage Therapist licensure. The US Department of Labor Apprenticeship Program with the 2000 hours of six (6) core competencies and supplemented with the 500 minimum required hours of Arkansas course Curriculum Instructions along with the U S Department of Labor's testing and paperwork of completion along with the sponsorship of the approved Arkansas Schools testing and that paperwork will have furnished to the Department of Health satisfactory proof of education and that he or she has earned a diploma from a State Board of Health accepted school of massage therapy. This is stated in current law on page 2 in 17-48-102 Definitions (2). This will be enough for a decision to be made by legal department for the Arkansas Department of Health to issue an Arkansas Massage Therapist license without the unnamed MBLEx testing along with just the Arkansas Law Test. We expect this to be upheld for all the future U S Department of Labor 2000 hours of the Apprenticeship Programs for Arkansas students of Massage Therapy with the Arkansas Department of Health. Thank you again for your kindness and e-mail and we appreciate when you all do all you can for the jobs and health of the businesses and citizens of Arkansas. I can be reached at 870 231 9515. As you can see, I have included other leaders in our industry in this e-mail, however without their permission at this time, as this needed to be responded quickly as we all move forward for the future of healthcare and spa businesses.
- 5/6/2022
  - [T]hank you for entering into public comments mine and others attempting to have our examinations and paperwork with the U S Department of Labor Apprenticeship for Certified Massage Therapist Program as the approved examination to be accepted by the Arkansas Department of Health to serve as the paperwork for issuing a Licensed Massage Therapist license. Not the costly and non-mentioned exam Massage and Bodywork License Exam (MBLEx ) which is not mentioned within our current law as you seem to believe it is set in stone for licensure. It is not!!! Our current law states on page 2 17-86-102. Definitions (2) (A) "Massage therapist" means a person who has: (i) Earned a diploma from a State Board of Health accepted school of massage therapy; (ii) Passed an examination required or accepted by the State Board of Health and (iii) Become licensed and registered to practice massage therapy. With these spelled out current laws we certainly hope you as lead legal counsel will respect our laws and grant the certified Massage Therapist Paperwork for the needed paperwork for licensure of our graduates of the year long and 2000 hours program with the US Department of Labor, which is three time the training with current Arkansas Massage Therapy curriculum, which is included within the Apprenticeship Program, as I helped comprise the program for the purpose to have our current curriculum taught so our industry can continue for much needed workers for the health of the citizens of Arkansas. [I]t is crunch time for our industry and we look to you for these very important issues and long-awaited changes which needed to be changed many years ago. Again, thank you for all you and others do for our industry and the citizens health of Arkansas. This is the time to get this corrected for the many errors which have existed for many years and lead to time after time of horrible legless sessions which we would like to avoid at this time and continue to work thru advancement of Massage Therapy work and other agencies with the State and with the Health Department.
- 5/13/2022
  - Thank you for being so helpful and kind with all your efforts to try and have the proposed new rules and regulations meet all the wants and need of so many for the Massage Therapy, healthcare and spa industries to move forward for the jobs and business for the citizens of Arkansas. I would hope everyone involved would want progress and advancement to happen just as soon as we can have





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some better issues in place including the apprenticeships to supply the much-needed workforce with our Certified Massage Therapist with 2000 hours of training and one year within the business of massage. I have addressed that early and now I would like to enter for public comments pertaining to schools: Section 9 Massage Therapy Schools and Postsecondary Massage Therapy Schools: 3. Relocation of a Massage Therapy School or Postsecondary Massage Therapy School. B (8) The required non-refundable registration fee (\$425.) Clearly this complete 3 Relocation of a Massage Therapy School or Postsecondary Massage Therapy School is ill written. To relocate should be notification and then inspection only with new facility which can be and was \$100 for inspections. Clearly when rented buildings are involved and maybe moving across town or purchasing a different building or larger facilities the \$425 should not be imposed to a school owner. Never has been. Just inspections to meet continued safety and sanitary facility. The complete section and cost should be about a satellite school not relocation. Thank you all for a smooth and orderly processes for public involvement as certainly some of us want advancement and betterment for our industry with less red tape to continue but certainly with the safety and sanitary issues addressed. I do not feel anyone would want that not addressed for the citizens of Arkansas and for the therapist and bodyworkers. Thank you so very much and with kind regards for all of you who work so hard for us.

- 5/22/2022

- I want to be sure to have entered into the public comments for the Massage Therapy New Proposed Rules and Regulations the following: With an Apprenticeship Program Approved by the US Department of Labor testing is with "Hands On" examinations and their written examinations also. These tests are far advanced and better preparations for a licensure than with MBLEx which does not do "Hands On" examinations and has a low pass rate on a national level. We feel the 2000 hours of training with the US Department of Labor Certified Massage Therapist Program certainly fulfills the requirements for a Licensure as a Licensed Massage Therapist for the State of Arkansas and they certainly have the ability to do the work for the citizens of Arkansas and supply businesses with the workforce, which is so needed, with our growing health care and spa industry. Also, our current law states to be a licensed massage therapist: 17-86-102. Definitions (2) (ii) Passed an examination required or accepted by the State Board of Health and (iii) Become licensed and registered to practice massage therapy. We feel with the approval of the US Department of Labor Apprenticeship Program and the State Office of Skill Management Grants Program now approved for some Massage Therapy schools for Certified Massage Therapist and with the 2000 hours and the US Labor "Right to Work" laws our apprentice graduates meet the requirements and training and examinations for the licensure process without MBLEx added costly testing. As an additional fact: Arkansas curriculum only requires 500 hours. We certainly look to the decisions from Department of Health Legal Department, and the MTTAC for a process to work for people in a year's program of training to go to work with the legal examination licensure processes approved by the US Department of Labor. Most do not have the money to support all the MBLEx increased cost of testing We look forward for you all to make this happen and appreciate all the work involved with the Arkansas Department of Health and for the health of our citizens and the "right to work" of our training Apprentices. We certainly need changes with Arkansas Massage Therapy Rules and Regulations Thank you so much for your hard work for the citizens, businesses and future therapist of Arkansas.

- 5/23/2022

- Thank you, I appreciate the opportunity to be able to speak. I am going to reel in what I have to say, except for the apprenticeship programs are approved. Schools have been approved by different agencies here in Arkansas. And they are, 2000 hours, instead of 500 hours, of training, of hands-on, testing, and of testing as the MBLEX test. But we add more hours, and we do hands-on testing. And at that point, I am going to limit any further comments. Thank you, appreciate it. Thank you, Attorney Thompson. Also thank you for explaining in today's public comments for the people who seemed not to be informed of the legality of the US Department of Labor's Apprenticeship Program





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for Certified Massage Therapist, O\*NET-SOC CODE: 31-9011.00 RAPIDS CODE: 2091CB and it already being LAW in Arkansas and in practice and moving forward for workers. We should all stay informed with our industry and thank you again for all the work you folks do.

## **AGENCY RESPONSE:**

Under the current Rules for Massage Therapy, the Arkansas Department of Health (“ADH”) accepts any one of the following three exams for licensure: Federation of State Massage Therapy Board Massage and Bodywork Licensing Exam (MBLEx); National Certification Examination for Therapeutic Massage (NCETM); National Certification Examination for Therapeutic Massage & Bodywork (NCETMB). Pursuant to Act 811 of 2021, “Earn and Learn Act”, codified in Ark. Code Ann. §17-6-101, et seq., ADH has proposed Rules that incorporate the Earn and Learn Act into the administration of the Massage Therapy licensure. Ark. Code Ann. §17-6-104 states: (a) A licensing entity shall grant a license to an applicant who: (1) completes an apprenticeship in the licensed occupation or profession; [and] (2) passes an examination, if deemed to be necessary by the licensing entity. ADH, with input from the Massage Therapy Technical Advisory Committee (“MTTAC”), determined that all applicants, whether students graduating from a licensed school or apprentices completing a federally-approved apprenticeship program, should be treated equally and all required to pass one of the three approved examinations for credentialing. Upon receipt of public comments, ADH has clarified Section 3, Paragraph 11 to state “(c) An applicant for licensure under this Rule shall meet all the other non-educational requirements for licensure under these Rules, including Section 5.2 [Examinations] and Section 7 [Continuing Education].” Any requirements imposed for an apprenticeship program to be approved are separate from the requirements by ADH and Arkansas law, as outlined by Act 811 of 2021, “Earn and Learn Act”. ADH has and will continue to coordinate with MTTAC to review and update the list of approved examinations required for licensure through any program.

With regard to the proposed changes for the relocation of an existing massage therapy school, ADH has proposed language to address the previous gap in the Rules for the purchase of an existing massage therapy school and the relocation of an existing massage therapy school to avoid the requirement that the existing school submit the same application as required for a new school, thereby avoid unnecessary steps and burden on the schools and ADH. Administrative and public health and safety concerns require that the new facility be inspected to meet state law and rule requirements and new owners must submit documentation in compliance with state law and rule requirements.





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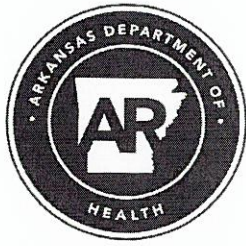
**Jennifer Dillaha, MD, Director**

*Albert Pilkington*

*Massage Envy-Conway*

*Received written comments on April 28, 2022 and May 4, 2022*

- 4/28/2022
  - I just wanted to submit a couple of comments as part of the public comment period on the new guidelines for Massage through Department of Health. They all look great and show a real focus on trying to help us all with the labor shortage. I sincerely appreciate the effort! My thoughts below are merely suggestions: 1. The apprenticeship licensure process is very fair and will be a huge help to significantly improve the quality of the graduates of the program. Would it be possible to have anyone that graduates from an apprenticeship program that has the same academic criteria as a 500- or 650-hour program to be able to become a LMT if they pass the MBLEX and state law test? Will there be a separate Licensure designation for Apprenticeship graduates versus 500- or 650-hour program? We intend to follow current State educational guidelines within the apprenticeship program, so they can take and pass the MBLEX if they so choose. In addition, we feel like the academics outside of technique makes for a better therapist. 2. It appears that apprentices are still required to pass a background check upon graduation before licensure with the state, but I wanted to confirm they were required to do the very necessary step as we would support that policy. 3. The clarification of massage school purchasing and moving the school seems very appropriate and fair.
- 5/4/2022
  - Attached is my public comment letter as I mentioned on the phone. It does have a bit of my political opinion about licensing, however after our conversation I understand if required a National Test is required under present Arkansas law/code. It is my concern that there is ambiguity in the guidelines for Section 3.11(a) leaving too much for varied interpretation and that the below section should be expanded to include the following to remove this ambiguity or have Section 5.2. expanded in the below example. *“11. Licensure for Massage Therapist through Apprenticeship under the Earn and Learn Act of 2021 (a) An applicant for licensure for Massage Therapist under this Rule shall provide satisfactory proof of completion of apprenticeship via official documentation from the apprenticeship program. This documentation may be in the form of a certificate, diploma, or similar official credential, or letter on official program letterhead.” As a competency based program requiring 2,000 hours, no national certification test as listed in Section 5.2 is required for official graduates of the program as applicants for licensure, however an Arkansas Massage Therapy law test is required as is all other requirements of licensure. As an alternative, Section 5.2. could be changed to read. “The Department will accept any of the following, and or completion of a 2,000-hour federal apprenticeship program in lieu of the State licensing examination.....”* The department of Labor apprenticeship program was developed to help the disadvantaged improve their economic situation though workforce competency training with no intention of limiting them after graduation by requiring an expensive national test with a high failure rate after investing 2,000 hours of their life to develop a highly employable skill. I am supportive of the idea of having two license types in Arkansas “Certified Massage Therapist” for apprenticeship graduates and a “Licensed Massage Therapist” for 500- and 650-hour programs requiring a National Education test. This would allow both to be paid for services once licensed, but for those that have no intention of leaving the State of Arkansas the ability to work as a massage therapist within the State or only other States that offer Federal Apprenticeship programs seems appropriate for improving the financial livelihood of Arkansas citizens.



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## AGENCY RESPONSE:

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With regard to the background checks required for license applicants (students and/or apprentices), ADH is not proposing any changes to the current requirements for background checks for all applicants.

*Audra Findley*

*MTI*

*Received written comment on April 29, 2022*

- I think the new proposal of the rules and regulations look good and I’m excited to see them move forward.

## AGENCY RESPONSE:

Received.

*Brenda Schwarzbach*

*Black Brook School of Massage*

*Received written comments on May 6, 2022*





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- I own and am lead instructor at the Black Brook School of Massage in Fayetteville, Arkansas. I've worked hard to create the best learning environment for my students and have a better than 90% pass rate on the licensing exam. My students also give a great therapeutic massage right out of school within the 500 hours required for licensure. I was just informed about HB1875 and have some strong opposition. The HB 1875 states that if I, now that I have grown my school to the point where I need a larger space it is going to require me to resubmit an application and pay fee to relocate? This is ludicrous. Why in the world was this even thought to be necessary? A person who owns a school and wishes to relocate already has gone through the paperwork necessary to have a school. Even if you were downsizing instead of the other way around you still would be using the same curriculum. You may have more or less tables and equipment but, seriously I really don't understand. If you are selling the school to someone else yes, I can see the need to have the school inspected and make sure it is compliant, but present owners should not have this burden if they wish to relocate. Keeping the school open and making certain the classroom was safe for students and staff this past two years has been difficult. None of my student got Covid during the pandemic from being in my classroom. I kept it clean and safe, and we even had student clinics as best we could. I have a very high pass rate on the licensing test. I do not believe the apprentice program should be approved for massage therapy except for those who have graduated 500 hours but are not yet licensed. Most schools in the state do a poor job of teaching. I have heard this from people who graduated elsewhere, from clients and my peers. I know my information is third hand but the issues in our massage education system are creating part of the problem that those who wish to see an apprenticeship program want to fix, and I believe strongly it will not work. I don't think an apprenticeship program is the answer. I think school inspections should be changed to make sure that the laws we do have are actually followed. If you have additional questions, I would be happy to talk with you.

## AGENCY RESPONSE:

With regard to the proposed changes for the relocation of an existing massage therapy school, ADH has proposed language to address the previous gap in the Rules for the purchase of an existing massage therapy school and the relocation of an existing massage therapy school to avoid the requirement that the existing school submit the same application as required for a new school, thereby avoid unnecessary steps and burden on the schools and ADH. Administrative and public health and safety concerns require that the new facility be inspected to meet state law and rule requirements and new owners must submit documentation in compliance with state law and rule requirements.

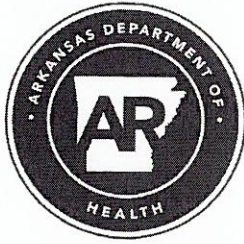
*Krista Moore,*

*MTI, School owner of NEA School of Massage*

*Received written comments on May 17, 2022*

- Here are my concerns or comments regarding the proposed changes. Issue of concern: 3. Relocation of a Massage Therapy School or Postsecondary Massage Therapy School: (a) Any person, firm or corporation seeking to relocate a Massage Therapy school or Postsecondary Massage Therapy School shall submit an application with required forms to the Massage Therapy Section office and receive pre-approval from the Department. (b) The application shall include: (1) Completed application provided by the Department and available on the Department's website at [www.healthyarkansas.com](http://www.healthyarkansas.com). (2) Describe the location of your school, type of structure, and furnish a detailed floor plan in compliance with Section 9, Rule 4. (3) List of proposed equipment used for instructional purposes in compliance with Section 9, Rule 4. (4) List of instructors and their qualifications. (5) Submit samples of all forms to be used in the school, such as, contract, sign-in sheets,





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attendance records, transcripts, guest instructor log, etc. (6) Submit a copy of your school's handbook-including refund policy. Postsecondary Schools must also include a disciplinary policy. (7) Valid background checks for each owner. 31 BOH Adopted Rules (8) The required non-refundable registration fee (\$425.00) If a massage school has already been up and running, and renewing each year but needs to move facilities, I understand the need for a new inspection and the need for providing number 2. However, if they are being inspected annually already, I do not see the need for the rest of the materials to be provided, as the only thing changing is the physical building. The need to change the building can be for various reasons many times outside of the school's control. For instance, I had to relocate before even being open a full year due to my building flooding and mold. I would have just submitted all of this information and the only thing that changed was I moved two doors down. Maybe if it said to provide any changes to the rest of these. My biggest concern with these is the background check (the time it takes) and the \$425 fee for re-licensure. I feel like it should be a new inspection fee of \$100 which is the initial inspection fee. My issue with the background check (I'm not against them) is that for instance my building flooded mid class, had I needed to do this entire process it would have delayed my class from graduating by probably a month if not longer. That is not fair to students currently enrolled. I understand this is not always the case but with schools having to renew and update information yearly I feel this is not necessary for just relocating. If you feel an instructor needs to pass a background check just for changing locations, I feel this should also be the same requirement for all therapists who change locations.

## **AGENCY RESPONSE:**

With regard to the proposed changes for the relocation of an existing massage therapy school, ADH has proposed language to address the previous gap in the Rules for the purchase of an existing massage therapy school and the relocation of an existing massage therapy school to avoid the requirement that the existing school submit the same application as required for a new school, thereby avoid unnecessary steps and burden on the schools and ADH. Administrative and public health and safety concerns require that the new facility be inspected to meet state law and rule requirements and new owners must submit documentation in compliance with state law and rule requirements.

*Heather Lymburner*

*Licensed Massage Therapist*

*Received written comment on May 19, 2022*

- I want to comment on proposed changes for the CEs needed for MT's. I feel that the requirement for no more than 6 of the 18 CEs for home study should be waived. It personally has been very hard for me to get any courses done that are not online. This is partly due to the Pandemic. I also have a hard time going to courses that are not in my hometown as I am a stay-at-home mom with a husband that works. I do not have any family in Arkansas so that makes it hard for me to do CEs not Online or at home study.

## **AGENCY RESPONSE:**

With regard to continuing education, there were several requirements for in-person training that were waived during the statewide public health emergency. After seeking input from MTTAC, ADH proposed changes to the Rules to allow MTTAC to waive this specific requirement in the





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future during a statewide public health emergency. However, concerns were raised for the need for ongoing, hands-on training for all massage therapists for continuing education outside of any statewide public health emergency.

*Heather Mondier*

*Received written comments on May 22, 2022*

- I have been made aware of the proposed changes regarding some of the massage therapy laws in our state. I am currently enrolled to begin massage therapy school in June. I am concerned about the ability to get a license via apprenticeship. Massage therapy requires the practitioner to learn safety protocols for themselves and their clients. They must learn the science behind the way the body works in order to do no harm, especially in terms of existing pathologies in the client. I believe more information should be provided to describe what an apprenticeship entail. I do not believe this should be used in lieu of passing a nationally certified exam. I realize am just on the verge of entering this profession. However, I hate to see a medical profession be dumbed down as if it were a trade skill. This isn't safe for our clients.

## **AGENCY RESPONSE:**

Pursuant to Act 811 of 2021, "Earn and Learn Act", codified in Ark. Code. Ann. §17-6-101, et seq., ADH has proposed Rules that incorporate the Earn and Learn Act into the administration of the Massage Therapy licensure. Ark. Code Ann. §17-6-104 states: (a) A licensing entity shall grant a license to an applicant who: (1) completes an apprenticeship in the licensed occupation or profession; [and] (2) passes an examination, if deemed to be necessary by the licensing entity. ADH, with input from the Massage Therapy Technical Advisory Committee ("MTTAC"), determined that all applicants, whether students graduating from a licensed school or apprentices completing a federally-approved apprenticeship program, should be treated equally and all required to pass one of the three approved examinations for credentialing as provided under the current rules.

*Jennifer Henderson*

*Received written comments on May 22, 2022*

- I will not be able to attend Monday's meeting. My views: I am against no MBLEX exam. It is the national standard. So that sets our state to fall behind the national standards. and shows disregard for professional standards. That can not be good. The loophole? I believe is. That the DOH has discretion for its own testing on this? Thank you Please keep me informed

## **AGENCY RESPONSE:**

Pursuant to Act 811 of 2021, "Earn and Learn Act", codified in Ark. Code. Ann. §17-6-101, et seq., ADH has proposed Rules that incorporate the Earn and Learn Act into the administration of the Massage Therapy licensure. Ark. Code Ann. §17-6-104 states: (a) A licensing entity shall grant a license to an applicant who: (1) completes an apprenticeship in the licensed occupation or





# Arkansas Department of Health

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**Jennifer Dillaha, MD, Director**

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*Niki Moss*

*Received comments during public hearing on May 23, 2022*

- It has come to my attention legislation is under consideration today that would grant licensure to massage therapists after having completed an apprenticeship without also having met the current licensure requirements such as taking specific coursework in addition to their hands-on hours, passing a licensure exam, and also passing a background check. I’m writing to ask that this new legislation not be advanced forward. I have a background as a licensed Physical Therapist Assistant, and as such have completed past coursework in massage therapy myself. I am also currently a long-time client of massage therapy who receives regular massage care for ongoing health issues. As someone who understands both sides of the massage care industry, I would find it incredibly alarming to know I or anyone else could someday end up in the care of a licensed massage therapist who has not been adequately trained, tested, and cleared by a background check. Massage Therapists often have tremendous positive impact on their clients’ health and wellbeing, and, conversely, could have tremendous negative impact if not properly and adequately educated. Checking for proper licensure and credentials is one of the BEST ways a client has for ensuring any given massage therapist is someone they can safely add to their healthcare “team”. A watered-down licensure process would leave the LMT license all but meaningless. And there are thousands of massage therapists in Arkansas now who have worked extremely hard to earn and maintain the credibility their license gives. Please don’t take that credibility away from them. This would be the absolute opposite direction from what the massage care industry should be moving in. If the concern of the state legislature is that too many financial barriers exist for people who wish to become licensed to do so, then please work instead on ways to provide funding, support, incentives, and/or subsidies to help make the proper and adequate training and licensure more affordable. There should not even be consideration for changing licensure to include less-well-trained or less qualified therapists. Why would we ever dumb-down the requirements of any of our medical care providers? Doctors, nurses, and other all providers (including massage therapists) should always be held to the highest of standards for the protection of all who receive care. Arkansans deserve more than the type of backwards move in adequate care this legislation would represent. The important role my massage therapist has had in my health care cannot be overstated. I ask once again, please do not undermine the massage care industry in this way.

## **AGENCY RESPONSE:**

Pursuant to Act 811 of 2021, “Earn and Learn Act”, codified in Ark. Code. Ann. §17-6-101, et seq., ADH has proposed Rules that incorporate the Earn and Learn Act into the administration of





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the Massage Therapy licensure. Ark. Code Ann. §17-6-104 states: (a) A licensing entity shall grant a license to an applicant who: (1) completes an apprenticeship in the licensed occupation or profession; [and] (2) passes an examination, if deemed to be necessary by the licensing entity. ADH, with input from the Massage Therapy Technical Advisory Committee (“MTTAC”), determined that all applicants, whether students graduating from a licensed school or apprentices completing a federally-approved apprenticeship program, should be treated equally and all required to pass one of the three approved examinations for credentialing as provided under the current rules. Upon receipt of public comments, ADH has clarified Section 3, Paragraph 11 to state “(c) An applicant for licensure under this Rule shall meet all the other non-educational requirements for licensure under these Rules, including Section 5.2 [Examinations] and Section 7 [Continuing Education].” ADH has and will continue to coordinate with MTTAC to review and update the list of approved examinations required for licensure through any program.

*Rochelle Franco*

*Licensed Massage Therapist*

*Received written comments on May 23, 2022*

- Hey. I will not be able to attend the meeting in Little Rock in the morning at 9 AM. If I will give you my thoughts on the proposed changes to the Arkansas Dept of health Massage therapy requirements. I have been a Licensed Massage Therapist for nearly 5 years and having the credibility of the MBLEX and the background check and CPR training prior to obtaining my License is paramount for my clients trusting me to touch their skin. Also having these tests gives us the ability rise to the national standard! And keeps our profession up to the professional protocol and respect that our clients and ourselves deserve.

## **AGENCY RESPONSE:**

Pursuant to Act 811 of 2021, “Earn and Learn Act”, codified in Ark. Code. Ann. §17-6-101, et seq., ADH has proposed Rules that incorporate the Earn and Learn Act into the administration of the Massage Therapy licensure. Ark. Code Ann. §17-6-104 states: (a) A licensing entity shall grant a license to an applicant who: (1) completes an apprenticeship in the licensed occupation or profession; [and] (2) passes an examination, if deemed to be necessary by the licensing entity. ADH, with input from the Massage Therapy Technical Advisory Committee (“MTTAC”), determined that all applicants, whether students graduating from a licensed school or apprentices completing a federally-approved apprenticeship program, should be treated equally and all required to pass one of the three approved examinations for credentialing as provided under the current rules. Upon receipt of public comments, ADH has clarified Section 3, Paragraph 11 to state “(c) An applicant for licensure under this Rule shall meet all the other non-educational requirements for licensure under these Rules, including Section 5.2 [Examinations] and Section 7 [Continuing Education].” ADH has and will continue to coordinate with MTTAC to review and update the list of approved examinations required for licensure through any program.





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*Leigh Ann Warriner*

*Received comments during the public hearing on May 23, 2022*

- Education is not adequate for what's being asked for us as a massage therapist. Needs to be a two-track system that addresses medical type massage care. This is taking it the other way. The board, yes, the board exam, the MBLEx is difficult. It's difficult for a reason. When I appeared before the legislature this past year to talk about this, and I talked about the fact that under this model they were presenting previously, that if we had apprentices that would work under a master massage therapist in an office setting that were going to work on the general public immediately as part of clinicals, without any experience or direction from someone in private, to make sure that they were adequate and appropriate in providing that care, I had a legislator look at me in the face and say 'why can't you just do that on dummies, like we learn CPR'. And it was just that tells you what we are dealing with here. So, you are willing to reduce and get people to work quicker let us lessen the means by the way they get there, because we want to get more people working, filling this void. But we are being asked more and more to become part of the allied health care community. We have an opportunity here. I think we are moving too quickly on this. This was done as a knee jerk response to a legislator that was trying to get this passed through to accommodate a business that happened, I am sure you are aware of the situation that the legislator's father happens to own a business and had an interest in this. To me, that is almost a conflict of interest from the start. We need to step back. You need to be asking each massage therapist licensed massage therapist in the State massage therapist licensed massage therapists in the State of Arkansas what are they doing right now, what are they seeing in your practices, what is being asked of you. We get asked everyday can we file this on health insurance. I have got four clients this weekend referred to me from physicians because they are out of options on pain management, because a gentleman who has had prostate cancer has now developed lymphedema in his legs because of the surgery. These are the things that we are being asked to endure, filling the gap now that physical therapy is moving further and further away from providing hands-on care. If you have been to physical therapy lately, you have a physical therapist that interviews you, they write up a protocol, and then you have an assistant that puts you through exercises while they watch. We are now the touch therapists, and we are removing and watering down the education that it takes for us to do therapy. In my opinion, we need to be going the other way. We education for massage therapy needs to be overhauled. But there needs to be a track comparable to what we have now for those that are more interested in a spa track, relaxation type environment, and they get adequate training to do that. But then there needs to be a separate track for those that are in the medical field that want to do more medical massage. UACC at Morrilton add a component to that. LPNS going away. It is easy to change LPN to a program that can have a medical massage component. I am passionate about what I do. I believe firmly in it, my clients believe firmly in it, and I urge you to take a step back and slow down. I am not opposed to an apprenticeship in general. I think that can be a good thing to get a feel for doing the job. But we need to slow down. And we need to really look at what's happening in the rest of the country.

## **AGENCY RESPONSE:**

Pursuant to Act 811 of 2021, "Earn and Learn Act", codified in Ark. Code. Ann. §17-6-101, et seq., ADH has proposed Rules that incorporate the Earn and Learn Act into the administration of the Massage Therapy licensure. Ark. Code Ann. §17-6-104 states: (a) A licensing entity shall grant a license to an applicant who: (1) completes an apprenticeship in the licensed occupation or profession; [and] (2) passes an examination, if deemed to be necessary by the licensing entity. ADH, with input from the Massage Therapy Technical Advisory Committee ("MTTAC"), determined that all applicants, whether students graduating from a licensed school or apprentices completing a federally-approved apprenticeship program, should be treated equally and all required





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to pass one of the three approved examinations for credentialing as provided under the current rules. Upon receipt of public comments, ADH has clarified Section 3, Paragraph 11 to state “(c) An applicant for licensure under this Rule shall meet all the other non-educational requirements for licensure under these Rules, including Section 5.2 [Examinations] and Section 7 [Continuing Education].” ADH has and will continue to coordinate with MTTAC to review and update the list of approved examinations required for licensure through any program.

*Julie Eckert*

*Licensed Massage Therapist*

*Received comments during the public hearing on May 23, 2022*

- I am a licensed massage therapist, and that is something that I have taken on as my retirement career. I would like to see the language cleaned up with the sexual assault and sexual misconduct language that are in the rules currently. Section 23 under sexual misconduct, it says “a range of behavior”. That is very broad, to me. I am working with some legislators to get some current language added to our law that will cover massage therapists when they do things like that. Because right now the only thing it falls under might be harassment. And that needs to change. And I just feel like this language needs to be cleaned up and get some definition where there is not any currently in the law.

## **AGENCY RESPONSE:**

ADH is not currently proposing any changes to the definitions under these rules. The current definition of “sexual misconduct” in the Rules is directly from Ark. Code Ann. §17-86-102.

*Donna McGriff*

*Received comments during the public hearing on May 23, 2022*

- In looking at the proposed rules and regs, the I commend you for doing something about the sale or transfer of ownership far as schools. I feel that that language is very appropriate. Regard to licensure of massage therapists through the apprenticeship program, in the Earn and Learn, there seems to be a considerable question about what the requirements are once you are licensed, or once you have completed an apprenticeship program. What is the licensure? In the proposed changes, it states that, you know, in Section C, that a licensure shall meet all the other non-educational requirements for licensures under these rules, including Section. Well, Section is mostly for continuing education. And I think it is unclear whether the MBLEX will the regular licensure for everyone else graduating from a program that is not under this program, will be the same as those graduating from an apprenticeship program. If it is not, then I think we are creating a disservice to those within the state if they are not taking the MBLEX exam. People move all the time to other states. Almost every state in the union requires the MBLEX exam to be taken, and passed, before you can be licensed. So, if those people decide to go to Louisiana, go to Texas, go to Oklahoma any of our surrounding states then at that point in time, they are not going to be able to license in that state. The state very well may not accept an apprenticeship program because who knows what that is going to be, and whether because when you look at that program, it allows for a mix of different education processes, some of that being online, some being maybe in classroom. And I am not sure well, I really do not believe that a lot of people understand that and especially legislators that there is a danger as well in massage therapy. And I do not believe this is going to be an appropriate benefit to the public of Arkansas. I think it is a detriment and a possible danger in allowing this type of education to supply a massage therapy license. And I you know; I





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have done this for years in Arkansas and this is the most insane thing I've ever seen. And my other concern, which I do not expect you to respond to, is we already publicizing that oh, enroll in our apprenticeship program. Those programs are not currently federally approved. Why are you advertising them? I think that is misleading a lot of people to think that oh, well, if they are advertising, surely, they are approved, they are in a school. There is currently no reference in the apprenticeship programs for any approved massage therapy program. You can Google it. Look at their programs. If you put in massage therapy as a career, there is not a single list or approved school, not just in Arkansas -- anywhere in the nation. And I think we are looking at a big problem with and we are throwing the protection of the public out the window. Thank you for your time.

## AGENCY RESPONSE:

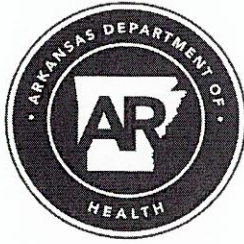
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*Michelle Christen*

*Received comments during the public hearing on May 23, 2022*

- Again, like those before me, I appreciate the time that you have honored us with, to come to the table and discuss the rules and regs as presented. I want to echo I've heard and allowed others to go first because I knew that they would be targeting some of the issues that I have. I want to echo Ms. Leigh Ann Warriner's comments. I also am nationally certified in lymphatic drainage. I have until recently employed a doctor in my spa and have worked with several medical clients. I am also a school owner and instructor. I do believe that at some point, there could be usefulness for an apprenticeship program. However, as it stands at this point, I do not believe that it is the avenue for the State of Arkansas to go. I echo Ms. McGriff's comments on therapists who become licensed in the state and need to move to other states. I have numerous therapists from other states who have come into my school, needing extra hours. There is a national test that applicants should take. It is a standardized test. I do not believe that school owners should be accountable for whether a person shows acuity to pass a test that regards pathologies, medical terminology. In my opinion, relationships between students and instructors can sometimes become close. And I would be fearful that there would be biasness on the part of some schools in putting students through, and signing off that they are adequately trained, when that may or may not be the case. I would support any kind of apprenticeship program having any very detailed standards on who is teaching, what are their credentials for teaching, as we are licensed as massage therapy instructors in the state. And also, that students should have to pass a nationally standardized test to be able to be licensed in the State of Arkansas. Again, I appreciate your time, and I appreciate your consideration.





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## **AGENCY RESPONSE:**

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ADH will review and coordinate with MTTAC for an ongoing discussion with the industry regarding spa-related techniques and medically-related techniques under the scope of practice for licensed massage therapists, and any need for multi-level licensure programs.

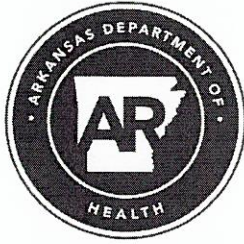
*Shalee Uhl*

*Received comments during the public hearing on May 23, 2022*

- 23 years license. I run a school in Cabot and Batesville. I agree with everything Donna McGriff said. As a school owner, I absolutely agree with Christen if it's not nationally licensed, I'm taking an apprenticeship, federal money, bring me the money, signing off and send you out the door. That's too easy. The second thing that's a concern of mine is the extra 1,500 hours. Our law is we're only allowed to do between 10 and 50 clinical hours per student, so we don't work them basically we don't make a profit off them in clinical. Keeps us from making too much money cheap labor. So, these extra, 1,500 hours of hands-on, is that in the classroom, learning modality, more book work, or is that, 1,500 hours charging the public? That's over \$30,000, profit per student if they're allowed to do 1,500 hours more clinicals. Sounds like a money game to me. There's benefit, I agree also, we probably do need more hours than the 500. That's a lot of cramming for what we need to know. But what we need to know isn't practicing on the public more. That's my concern paying \$11 an hour, making money off the federal government, and pushing them out the door to get more students in. It's a racket. So, if that's how it's going to be, then it needs to be laid out where those 1,500 hours are, just like the 500. If we're only allowed to work our students between 10 and 50, that's what the apprenticeships should be too. If that's a lot of hours that can get them to pass the MBLEX. So those are my questions and concerns how that is going to be written in there.

## **AGENCY RESPONSE:**

Pursuant to Act 811 of 2021, “Earn and Learn Act”, codified in Ark. Code. Ann. §17-6-101, et seq., ADH has proposed Rules that incorporate the Earn and Learn Act into the administration of the Massage Therapy licensure. Ark. Code Ann. §17-6-104 states: (a) A licensing entity shall grant



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**QUESTIONNAIRE**  
**FOR FILING PROPOSED RULES WITH THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

**DEPARTMENT/AGENCY** Arkansas Department of Health  
**DIVISION** Cosmetology, Body Art, and Massage Therapy Section  
**DIVISION DIRECTOR** Kelli Kersey  
**CONTACT PERSON** Laura Shue, General Counsel  
**ADDRESS** 4815 West Markham, Slot 35, Little Rock, AR 72205  
**PHONE NO.** (501) 661-2297 **FAX NO.** \_\_\_\_\_ **E-MAIL** Laura.Shue@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Laura Shue, General Counsel  
**PRESENTER E-MAIL** Laura.Shue@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
 Administrative Rules Review Section  
 Arkansas Legislative Council  
 Bureau of Legislative Research  
 One Capitol Mall, 5th Floor  
 Little Rock, AR 72201

\*\*\*\*\*

1. What is the short title of this rule? Massage Therapy

2. What is the subject of the proposed rule? To establish standards to regulate the vocation of massage therapy.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No

If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No  If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes  No  If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes  No  If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Ark. Code Ann.. § 17-86-203

7. What is the purpose of this proposed rule? Why is it necessary?

Clarifies prohibited criminal offenses  
Makes Changes to comply with Acts 135, 136, 595, 725, 746, 748, and 811 of 2021.



8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules>

9. Will a public hearing be held on this proposed rule? Yes  No  If yes, please complete the following:

Date: 05/23/2022

Time: 9:00 AM

Place: Board Room #906 of the Freeway Medical Building located at 5800 West 10th Street, Little Rock, Arkansas 72204

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

05/23/2022

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12/31/2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. \_\_\_\_\_

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). \_\_\_\_\_

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Message Therapy Advisory Committee and Massage Therapists

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Health

**DIVISION** Cosmetology, Body Art, and Massage Therapy Section

**PERSON COMPLETING THIS STATEMENT** Laura Shue, General Counsel

**TELEPHONE NO.** (501) 661-2297 **FAX NO.** \_\_\_\_\_ **EMAIL:** Laura.Shue@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Massage Therapy

1. Does this proposed, amended, or repealed rule have a financial impact? Yes  No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes  No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes  No

If an agency is proposing a more costly rule, please state the following:

a) How the additional benefits of the more costly rule justify its additional cost;

b) The reason for adoption of the more costly rule;

c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.



4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_

General Revenue \_\_\_\_\_

Federal Funds \_\_\_\_\_

Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Special Revenue \_\_\_\_\_

Special Revenue \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_ \$ 0.00

Total \_\_\_\_\_ \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_

General Revenue \_\_\_\_\_

Federal Funds \_\_\_\_\_

Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Special Revenue \_\_\_\_\_

Special Revenue \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_ \$ 0.00

Total \_\_\_\_\_ \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?  
Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.





# ARKANSAS STATE BOARD OF HEALTH

## RULES FOR MASSAGE THERAPY IN ARKANSAS



PROMULGATED UNDER THE AUTHORITY OF  
ARK. CODE ANN. §20-7-109

Effective ~~December~~ \_\_\_\_\_

Arkansas Department of Health

Renee Mallory, RN, BSN,

Interim Secretary of Health

Jennifer Dillaha, MD

Director and State Health Officer ~~Arkansas Department of Health~~

~~José R. Romero, MD, FAAP, FIDSA, FPIDS, FAAAS~~

~~Secretary and State Health Officer~~



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## Section 1 Authority and Purpose

- 1. Authority** - The following Rules for Massage Therapy in Arkansas are duly adopted and promulgated by the Arkansas Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including, without limitation, the Massage Therapy Act, specifically Ark. Code Ann. § 17-86-203(a).
- 2. Purpose** - These Rules are prepared for the purpose of establishing standards to regulate the vocation of massage therapy, to provide for the licensing of persons to carry on and to teach such vocation, to regulate the conduct and sanitation of massage therapy clinics, Massage Therapy schools, and Massage Therapy postsecondary schools so as to prevent the spreading of communicable diseases and, to provide penalties for violation thereof.

## Section 2 Principles, Methods and Definitions

Terms found in Arkansas Code §17-86-102 are descriptive rather than limiting, and massage therapy includes those techniques which are utilized in all phases of massage and bodywork for the purposes of relaxation, stress reduction, pain relief, injury prevention, injury repair, postural improvement and/or health enhancement.

- 1. "Apprenticeship"** means [a program that meets the federal guidelines set out in 29 C.F.R. Part 29, as existing on March 1, 2021, and approved by the United States Office of Apprenticeship as meeting the requirements of an apprenticeship.](#)
- 1.2. "Assist"** means acting as an aide to a master massage therapist or massage therapy instructor.
- 3. "Automatic licensure"** means [granting the occupational licensure without an individual having met occupational licensure requirements provided under the Arkansas Code or by other provisions in these Rules.](#)
- 2.4. "Board"** means the Arkansas State Board of Health.
- 3.5. "Continuing Education"** means education that is acquired after an individual has graduated and become licensed as a massage therapist.
- 4.6. "Cupping Therapy for massage"** means a modality used to release rigid soft tissues, through the application of a non-heated device that creates suction to lift the tissue away from the body.



**5-7.** **“Department”** means the Arkansas Department of Health.

**6-8.** **“Direct supervision”** means being in the physical presence of a licensed master massage therapist or massage therapy instructor.

**7-9.** **“Guest Instructor”** means a qualified speaker or presenter.

**8-10.** **“Licensee”** means an individual licensed under the Massage Therapy Act and these Rules.

**9-11.**

(a) **“Massage therapist”** means a person who has:

- (1) Earned a diploma from a Board-accepted school of massage therapy;
- (2) Passed an examination required or accepted by the Board; and
- (3) Become licensed and registered to practice massage therapy.

(b) **“Massage therapist”** includes a person who has previously obtained the massage therapist license under prior state law.

(c) A massage therapist may:

- (1) Instruct continuing education programs approved by the Department of Health; and
- (2) Assist in the instruction of the procedures listed in the definition of Massage Therapy under the direct supervision of a massage therapy instructor or master massage therapist.

**10-12.**

(a) **“Massage therapy”** means the treatment of soft tissues, which may include skin, fascia, and muscles and their dysfunctions for therapeutic purposes of establishing and maintaining good physical condition, comfort, and relief of pain.

(b) **“Massage therapy”** is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, and stretching the tissue.

(c) **“Massage therapy”** also means to engage in the practice of any of the following procedures:

- (1) Massage therapy techniques and procedures either hands-on or with mechanical devices;
- (2) Therapeutic application and use of oils, herbal or chemical preparations, lubricants, nonprescription creams, lotions, scrubs, powders, and other spa services;

- (3) Therapeutic application of hot or cold packs;
- (4) Hydrotherapy techniques, which means the use of water in any form for therapeutic purposes and includes methods of full and partial immersion baths, whirlpools, sponging, sprays, body shampoos, body scrubs, body wraps, fomentations, compresses, poultices, packs, masks, steam treatments, and sauna treatments;
- (5) Heliotherapy, which may include mechanical devices, heat lamps, and other devices with the use of light for therapeutic purposes and may consist of the use of infrared radiation lamps and devices and the various uses of other light that might be approved by the Department;
- (6) Electrotherapy, which means the use of electrical devices for therapeutic purposes and may consist of the use of mechanical vibrators, electric stimulation, direct and alternating currents, interferential currents, micro currents, and Russian stimulation; and,
- (7) Any hands-on bodywork techniques and procedures rising to the level of the techniques and procedures intended to be regulated under the Massage Therapy Act and not covered under specific licensing laws of other boards.

(d) The following are not included in the scope of massage therapy practice:

- (1) Colonic irrigation and other methods of internal hydrotherapy;
- (2) Depilation, waxing, extractions, and electrolysis;
- (3) Practices involving the use of ultrasound, unless the therapist can present educational qualifications acceptable to the Department and a licensed physician prescribes the treatment; or,
- (4) Piercing, lancing, or penetrating the skin.

~~11.13.~~ **13.** **"Massage Therapy Act"** means Arkansas Code § 17-86-101, et. seq.

~~12.14.~~ **14.** **"Massage therapy clinic"** means a clinic, place, premises, building, or part of a building in which a branch or any combination of branches of massage therapy or the occupation of a massage therapist is practiced;



**13.15.**

(a) **"Massage therapy instructor"** means a person who:

- (1) Before July 1, 2010, has completed no less than two hundred fifty (250) hours of practical experience as a master massage therapist, which may be gained, in part or in whole, as an assistant to an instructor in a massage school or may be gained, in part or in whole, as a directed instructor in a massage school and has completed no less than two hundred fifty (250) continuing education hours as approved by the Department;
- (2) On or after July 1, 2010, has been an active and practicing licensee and registered as a master massage therapist for a period of not less than three (3) years preceding the application for an upgrade to massage therapy instructor;
- (3) On or after July 1, 2010, in addition to the experience under subdivision ~~(6)(A)(i)~~(15)-(a)-(1) of this section, has completed no less than two hundred fifty (250) continuing education hours as approved by the Department as a licensed master massage therapist; and
- (4) Is determined by the Department to be qualified to be licensed and registered to practice massage therapy.

(b) **"Massage therapy instructor"** includes a person who has previously obtained the massage therapy instructor license under prior state law.

(c) Massage therapy instructors may:

- (1) Instruct continuing education programs approved by the Department;
- (2) Instruct any of the procedures in subdivision (512) of this section; and
- (3) Instruct basic curricula in a massage therapy school registered by the department as required by § 17-86-306(e).

**14.16.** **"Massage Therapy School"** means a registered and licensed facility that meets and follows the required educational standards as established by § 17-86- 306 and all pertinent rules established by the State Board of Health.

**15.17.** **"Massage Therapy Spa"** means a site or premises, or portion of a site or premises, in which a massage therapist practices massage;

**16-18.**

(a) **"Master massage therapist"** means a person who:

- (1) Before July 1, 2010, is a licensed and registered massage therapist who has completed no fewer than two hundred fifty (250) hours of practical experience as a massage therapist, which may be gained in part or in whole as an assistant to an instructor in a massage school and has completed no less than one hundred twenty-five (125) continuing education hours as approved by the Department of Health;
- (2) On or after July 1, 2010, has been an active and practicing licensee and registered as a massage therapist for a period of not less than two (2) years preceding the application for an upgrade to master massage therapist;
- (3) On or after July 1, 2010, in addition to the experience under subdivision ~~(14)(A)(i)~~ 18. (a) (1) of this section, has completed no less than one hundred twenty-five (125) continuing education hours as approved by the Department of Health; and
- (4) Is determined by the Department of Health to be qualified to be licensed and registered to practice massage therapy.

(b) "Master massage therapist" includes a person who has previously obtained the master massage therapist license under a prior state law.

(c) Master massage therapists may:

- (1) Instruct continuing education programs approved by the Department of Health;
- (2) Instruct any of the procedures listed in the definition of massage therapy in this section; and
- (3) Instruct, as directed by a massage therapy instructor, basic curricula in a massage therapy school registered by the Department of Health as required by § 17-86-306(e).

**17-19.** **"NCBTMB"** means National Certification Board of Therapeutic Massage and Bodywork.

**20.** **"Owner"** means an individual who is a sole proprietor, member, shareholder, or holder of an ownership interest, directly or indirectly, in a partnership, association, joint venture, corporation, limited liability company, or trust that owns or controls a massage therapy school or postsecondary massage therapy school.

**18-21.** **"Passing grade"** means a score of seventy (70%) percent or better.



- 19-22. "Postsecondary massage therapy school"** means a massage therapy school that:
- (a) Offers a postsecondary curriculum approved by the State Board of Health; and
  - (b) Has an enrollment in which no more than fifty percent (50%) of its students do not have a diploma or the recognized equivalent of a high school diploma.

- 20-23. "Sexual misconduct"** includes:
- (a) A range of behavior used to obtain sexual gratification against another's will, at the expense of another, without the client's knowledge, engaging in sexual activity for profit, or a combination of any of these activities;
  - (b) Massage of the genitalia, anus, and, except under specific circumstances, the breast; and
  - (c) Sexual activity with consent of a client or at the request of a client.

**24. "Uniformed service member"** means an active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force, or National Guard; an active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or an active or reserve component member of the United States Commissioned Corps of the Public Health Service.

**25. "Uniformed service veteran"** means a former member of the United States uniformed services discharged under conditions other than dishonorable.

### **Section 3** **Policies & Procedures**

1. The Department designates all forms and letters as necessary.
2. The Massage Therapy Technical Advisory Committee (MTTAC) may meet on a quarterly basis and at other times as deemed necessary by the Department and follows all requirements of the Freedom of Information Act and all other applicable State laws in conducting such meetings.
  - (a) The MTTAC shall consist of seven (7) members, who shall be appointed by the Board for a term of three (3) years. The composition of the MTTAC shall be as follows:
    - (1) Six (6) shall be licensees under the Massage Therapy Act;

- (2) Only one (1) shall be an owner of a massage therapy school;  
and
- (3) One (1) member, to represent the public, shall not be engaged in or retired from the practice of massage therapy.

(b) The powers and duties of the MTTAC are as follows:

- (1) Recommend rule changes to the Board;
  - (2) Recommend CEU approval to the Department; and,
  - (3) Hold initial hearings and determinations as described in Section [4, Rule 44](#).
- 3.** Requests for items to be placed on the MTTAC's agenda must be submitted to the Department of Health's Massage Therapy Section in writing at least fourteen (14) days prior to the applicable MTTAC meeting.
  - 4.** A copy of the Massage Therapy Act and a copy of the latest adopted Rules shall be posted on the Department of Health's website and available for download.
  - 5.** An applicant applying as a new massage therapy licensee, an individual applying for a new massage therapy school license, or a licensee applying for an upgrade issued by the Department shall apply to the Identification Bureau of the Arkansas State Police for a state and federal criminal background check to be conducted by the Identification Bureau and the Federal Bureau of Investigation.
    - (a) The state and federal criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints;
    - (b) The applicant shall sign a release of information to the Department and shall be responsible for the payment of any fees associated with the state and federal criminal background check;
    - (c) Each applicant who has resided outside of Arkansas shall provide a state and federal criminal background check, including the taking of fingerprints, issued by the state or states in which the applicant resided; and,
    - (d) Results shall be sent directly to the Department from the agency performing the state and federal criminal background check.
  - 6.** The MTTAC may deny, suspend, place on probation, or revoke a license if a licensee or applicant has pleaded guilty or nolo contendere to or been found guilty of any felony listed under Ark. Code Ann. §17-3-102.



## **7. Pre-Licensure Criminal Background Check**

- (a) Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
- (b) The individual must obtain the pre-licensure criminal background check petition form from the Department.
- (c) The Department will respond with a decision in writing to a completed petition within a reasonable time.
- (d) The Department's response will state the reasons for the decision.
- (e) All decisions of the Department in response to the petition will be determined by the information provided by the individual.
- (f) Any and all decisions made by the Department in response to a pre-licensure criminal background check petition are not subject to appeal.
- (g) The Department will keep and maintain a copy of the petition and response, which will be reviewed during the formal application process.

## **8. Waiver Request:**

- (a) If an individual has been convicted of a felony listed in A.C.A. § 17-3-102, the Department may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:
  - (1) An affected applicant for a license; or
  - (2) An individual holding a license subject to revocation.
- (b) The Department may grant a waiver upon consideration of the following, without limitation:
  - (1) The age at which the offense was committed;
  - (2) The circumstances surrounding the offense;
  - (3) The length of time since the offense was committed;
  - (4) Subsequent work history since the offense was committed;
  - (5) Employment references since the offense was committed;
  - (6) Character references since the offense was committed;
  - (7) Relevance of the offense to the occupational license; and
  - (8) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health and safety of the public.

- (c) A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees. A request for waiver, if made by a licensee, must be in writing.
  - (d) The Department will respond with a decision in writing and will state the reasons for the decision.
  - (e) Appeals under this section will be subject to the Administrative Procedures Act §25-15-201, et seq.
9. Applicants for licensure are considered who have completed and graduated with a minimum of five (500) in-classroom hours of massage therapy classes, or proof is given of completion of the specific classes and hours taken as required in Arkansas massage schools.
- (a) Each course must be a passing grade of seventy-five (75) percent or higher.

#### **10. Fee Waiver under Act 725 of 2021**

(a) Pursuant to Act 725 of 2021, an applicant may receive a waiver of the initial licensure fee, if eligible. Eligible applicants are applicants who:

- (1) Are receiving assistance through the Arkansas, or current state of residence equivalent, Medicaid Program, the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (SSNP), the Temporary Assistance for Needy Families Program (TEA), or the Lifeline Assistance Program (LAP);
- (2) Were approved for unemployment within the last twelve (12) months; or
- (3) Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

(b) Applicants shall provide documentation showing their receipt of benefits from the appropriate State Agency.

- (1) For Medicaid, SNAP, SSNP, TEA, or LAP, documentation from the Arkansas Department of Human Services (DHS), or current state of residence equivalent agency;
- (2) For unemployment benefits approval in the last twelve (12) months, the Arkansas Department of Workforce Services, or current state of residence equivalent agency; or
- (3) For proof of income, copies of all United States Internal Revenue Service Forms indicating applicant's total personal income for the most recent tax year e.g., "W2," "1099," etc.



(c) Applicants shall attest that the documentation provided under (b) is a true and correct copy and fraudulent or fraudulently obtained documentation shall be grounds for denial or revocation of license.

**11. Licensure for Massage Therapist through Apprenticeship under the Earn and Learn Act of 2021**

(a) An applicant for licensure for Massage Therapist under this Rule shall provide satisfactory proof of completion of apprenticeship via official documentation from the apprenticeship program. This documentation may be in the form of a certificate, diploma, or similar official credential, or letter on official program letterhead.

(b) An applicant for licensure under this Rule shall provide satisfactory documentation that the completed apprenticeship program meets the federal guidelines set out in 29 C.F.R. Part 29, as existing on March 1, 2021, and that the program has been approved by the United States Office of Apprenticeship or the Arkansas Department of Workforce Services.

(c) An applicant for licensure under this Rule shall meet all the other non-educational requirements for licensure under these Rules, including Section 5.2 and Section 7.-

(d) If an applicant is denied a license for failing to meet the criteria in (a)-(c), the applicant shall be provided the reason for denial in writing.

**Section 4**  
**Enforcement**

**1. Consumer Information:**

- (a) A copy of the most recent inspection sheet shall be posted in a conspicuous area.
- (b) All Massage Therapy schools, Massage Therapy postsecondary schools, Massage therapist licenses, Master massage therapist license and Massage instructor licenses and spa and clinic registration letter shall be conspicuously posted in a designated place in reception areas, outside individual work rooms, or in the clinic area.
- (c) A copy of the online complaint website and phone number for the Arkansas Department of Health Cosmetology and Massage Therapy Section shall be posted in a designated place in reception area, outside individual work rooms, or in the clinic area.

## **2. Inspections:**

- (a) Initial, routine and complaint inspections are conducted to ensure compliance with the licensing law and rules. Any inspector shall have the authority to enter into and inspect any massage therapy spa, clinic or school at any time during business hours. Massage Therapy spas or clinics are inspected at least annually but not limited to, to ensure compliance with the licensing law and rules promulgated by the Board unless complaints are received by the Department. The inspectors examine licenses; inspect buildings and equipment; report violations of the law or rules; investigate complaints; - and perform initial inspections of new spas, clinics and schools.

## **3. Complaints:**

- (a) Any person may file a complaint against any of the following: a person who practices massage therapy, massage therapy clinic/spa, massage therapy school or postsecondary massage therapy school on any of the grounds for disciplinary action provided in § 17-86-311(a) of the Massage Therapy Act.
- (b) Official complaints must be made in writing within ninety (90) days from the date of infraction.
- (c) Complaints will be investigated by the Department and its staff.
- (d) The Department has the authority to investigate all such written complaints, investigate and refer to the MTTAC any information that comes to their attention constituting reasonable belief that a violation of law or rule has occurred.

## **4. Hearings**

- (a) If findings are made against a licensee, clinic/spa, or massage therapy school or postsecondary massage therapy school, a hearing shall be held by the MTTAC.
  - (1) The MTTAC will hold any necessary hearings at the regular quarterly meetings.
  - (2) Appeals of MTTAC findings may be heard by the State Board of Health.
- (b) For the purpose of adjudicative hearings on complaints, the Department shall comply with the Arkansas Administrative Procedures Act, § 25-15-201 et. seq.

## **Section 5** **Licensing and Renewals**

1. The Department may administer an examination of its own preparation as the State licensing examination for Arkansas massage therapists, to be administered at the time and place the Department so designates.
2. The Department will accept [any of the following](#), in lieu of the State licensing examination, provided that the applicant passes a Department examination that verifies their knowledge of the Massage Therapy Act and of these rules that govern the practice of massage therapy in the State:
  - (a) Federation of State Massage Therapy Board Massage and Bodywork Licensing Exam (MBLEx);
  - (b) National Certification Examination for Therapeutic Massage (NCETM);  
or,
  - (c) National Certification Examination for Therapeutic Massage & Bodywork (NCETMB).
3. In the instance of multiple exams, the Department reserves the right to approve additional exams that are equivalent to those listed in Section 5, number 2.
4. The Department may, at its discretion, require a practical examination and may publish guidelines for the examination so that applicants might have insight into what would be expected to be demonstrated.
5. Every massage therapy license, active or inactive, is valid for a period of two (2) years and expires on the licensee's birthday.
  - (a) The licensee must submit the following for renewal of his or her license: a completed license renewal application, payment of the appropriate fees and documented proof of no fewer than eighteen (18) hours of continuing education that have been approved in accordance with ~~Article Six~~ [Section 7](#).
  - (b) A renewal application must be postmarked on or before the first day of the month preceding the month in which the licensee's birthday falls in the biennial renewal year.

*Example: Joe's birthday is June 14th and his license expires in 2011. His renewal application must be postmarked on or before May 1, 2011.*
  - (c) A renewal application postmarked after the first day of the month preceding the month in which the licensee's birthday falls shall be



charged a late fee of twenty-five dollars (\$25.00) in addition to renewal fees.

- (d) A license is expired if application is postmarked after the birthday of the licensee in the biennial renewal year.
  - (1) Before the Department issues a new license to an applicant with an expired license, the applicant shall:
    - (A) Submit a new application that requires the applicant to meet current requirements; and
    - (B) Successfully complete an examination recognized by the Department of Health.
- 6.** Renewal application forms will be mailed out the first of the month preceding the month they are due.
- 7.** Any individual licensee who is currently not practicing and wishes to place his or her license on the inactive list shall:
  - (a) Submit a renewal application for inactive status every two (2) years, even if remaining inactive;
  - (b) Surrender his or her current license to the Department of Health office;
  - (c) Not practice massage therapy during the time licensee is on the inactive list; and,
  - (d) Not remain on the inactive list for a period to exceed four (4) years without reexamination.
  - (e) An individual who has been placed on the inactive list for fewer than four (4) years and wishes to reactivate licensure shall follow the procedures for license renewal, present satisfactory evidence of completion of continuing education hours for the inactive period and pay all appropriate fees before resuming active practice of massage therapy.
  - (f) An individual who passes the four (4) year time allotment shall be considered to have an expired license and must meet the current requirements for licensure and successfully complete an examination recognized by the Department before resuming active practice of massage therapy.
- 8.** Persons practicing with an expired license may be referred for prosecution or civil action for practicing without a license and penalties of Arkansas Code § 17-86-103 may be applied.

## Section 6 Reciprocity, Temporary Licensure and Military Licensure.

### 1. Reciprocity under Act 1011 of 2019.

~~(a)~~ **Reciprocity**

~~(b)~~ (a) Required Qualifications for Reciprocity. An applicant applying for reciprocal licensure shall meet the following requirements:

(1) The applicant shall hold a substantially similar license in another United States jurisdiction.

(A) A license from another state is substantially similar to an Arkansas Massage Therapy license if the other state's licensure qualifications require:

1. Completed and graduated with a minimum of five (500) in- classroom hours of massage therapy classes, or proof is given of completion of the specific classes and hours taken as required in Arkansas massage schools as required by Ark. Code Ann. § 17-86-306(e).

(B) The applicant shall hold his or her occupational licensure in good standing.

(2) The applicant shall not have had a license revoked for:

(A) An act of bad faith; or

(B) A violation of law, rule, or ethics;

(3) The applicant shall not hold a suspended or probationary license in a United States jurisdiction;

(4) The applicant shall be sufficiently competent in the Massage Therapy and pass a licensing exam comparable to Section 5, Rule 2(a)-(c), ~~A, B or C~~ and pass the Arkansas Massage Therapy Law examination.

~~(e)~~ (b) Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

- (1) As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas, the applicant shall submit the following information:
  - (A) Evidence of current and active licensure in that state. The Department may verify this information online if the jurisdiction that issue provides primary source verification on its website and;
  - (B) Evidence that the other state's licensure requirements match those listed in [Section 6, Rule 1\(a\)\(1\)\(A\)](#). ~~(A) (i)~~ ~~(a)~~ The Department may verify this information online if the jurisdiction that issue provides primary source verification on its website.
- (2) To demonstrate that the applicant meets the requirements in ~~1-~~ ~~(A) (i) (b) through (d)~~ [Section 6, Rule 1\(a\)\(2\)-\(4\)](#), the applicant shall provide the Department with:
  - (A) The names of all states in which the applicant is currently licensed or has been previously licensed;
  - (B) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in [Section 6, Rule 1\(a\)\(2\)\(A\) \(i\) \(e\)](#) and does not hold a license on suspended or probationary status as described in [Section 6, Rule 1\(a\)\(3\)](#). ~~1-~~ ~~(A) (i) (d)~~ The Department may verify this information online if the jurisdiction that issue provides primary source verification on its website.
- (3) As evidence that the applicant is sufficiently competent in the field of Massage Therapy, an applicant shall:
  - (A) Pass a licensing exam comparable to [Section 5, Rule 2\(a\)-\(c\)](#) ~~Section 5, A, B or C~~ and pass the Arkansas Massage Therapy Law examination.
  - (B) Submit three (3) letters of recommendation from former employers, former educators, or clients.
- (4) Documents required to show compliance with least restrictive Requirements:
  - (A) A valid photo identification or driver's license, or both; and



- (B) A social security card issued in the same name as the applicant or licensee.
- (C) Present a high school diploma, Certificate of General Educational Development, or college transcript and credentials issued by a department-accepted massage therapy school or a like institution with no less than five hundred (500) in-classroom hours of instruction.
- (D) An applicant shall have the massage therapy school submit the transcript directly to the department office.
  - 1. If the applicant's transcript is not obtainable from the original school, the applicant shall submit a statement to explain why it may not be obtained.
  - 2. Other documentation of credentials may be submitted and accepted for licensure at
- (E) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department;

(5)

- (A) An out-of-state applicant holding a current massage therapy license issued by another state and after receiving an Arkansas massage therapy license may apply for an upgrade to master massage therapist or massage therapy instructor by providing appropriate continuing education credits and experience gained before Arkansas licensure for department approval.
- (B) An upgrade request shall be made by submitting a complete application package and paying the fees required by this chapter.

## 2. Temporary License

- (a) The Department shall issue a temporary license immediately upon receipt of the application, the required fee, and the documentation required under [Section 6, Rule 2\(b\) and \(c\)](#).
- (b) The temporary license shall be effective for 90 days, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections [Section 6, Rule 1\(b\)\(1\)-\(4\)\(A\), \(B\), \(C\), and \(D\)](#) in which case the temporary license shall be immediately revoked.

(c) An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary license.

**3. License for person from state that doesn't license profession pursuant to Act 1011 of 2019.**

(a) Required Qualifications. An applicant from a state that does not license Massage Therapy shall meet the following requirements:

- (1) The applicant shall be sufficiently competent in Massage Therapy;
- (2) Pass a licensing exam comparable to Section 5, A, B or C and pass the Arkansas Massage Therapy Law examination; and,
- (3) Submit three (3) letters of recommendation from former employers, former educators, or clients.

(b) Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

- (1) As evidence that the applicant is sufficiently competent in the field of Massage Therapy an applicant shall:
  - (A) Pass a licensing exam comparable to Section [Section 5, Rule 2\(a\)-\(c\)](#)~~5, A, B or C~~ and pass the Arkansas Massage Therapy Law examination; and,
  - (B) Submit three (3) letters of recommendation from former employers, former educators, or clients.
- (2) A valid photo identification or driver's license, or both;~~and.~~
- (3) A social security card issued in the same name as the applicant or licensee.
- (4) Present a high school diploma, Certificate of General Educational Development, or college transcript and credentials issued by a department- accepted massage therapy school or a like institution with no less than five hundred (500) in-classroom hours of instruction.
- (5) An applicant shall have the massage therapy school submit the transcript directly to the department office.
  - (A) If the applicant's transcript is not obtainable from the original school, the applicant shall submit a statement to explain why it may not be obtained.

(B) Other documentation of credentials may be submitted and accepted for licensure at

- (6) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department.

#### **4. Reciprocity and state-specific education pursuant to Act 1011 of 2019.**

(a) The Department shall require an applicant to take no less than five hundred (500) in-classroom hours of instruction department-accepted massage therapy school or a like institution if the applicant is licensed in another state that does not offer reciprocity to Arkansas residents that is similar to reciprocity provided to out-of-state applicants in A.C.A. § 17-1-108.

(b) Reciprocity in another state will be considered similar to reciprocity under A.C.A. § 17-1-108 if the reciprocity provisions in the other state:

- (1) Provides the least restrictive path to licensure for Arkansas applicants;
- (2) Do not require Arkansas applicants to participate in the apprenticeship, education, or training required as a prerequisite to licensure of a new professional in that state, except that the state may require Arkansas applicants to participate in continuing education or training that is required for all professionals in that state to maintain the licensure; and,
- (3) Do not require Arkansas applicants to take a state-specific education unless required to do so under the same conditions described in A.C.A. § 17-1-108.

#### **1. Military licensure under Act 820 of 2019**

~~(A) As used in this subsection, "returning military veteran" means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.~~

~~(B) As used in this subsection "automatic licensure" means granting the occupational licensure without an individual having met occupational licensure requirements provided under this title or by the rules of the occupational licensing entity.~~

~~(C) The Department shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:~~

- ~~1. An active duty military service member stationed in the State of Arkansas;~~
- ~~2. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or~~
- ~~3. The spouse of a person under (B)1 or 2 above.~~



~~C. The Department shall grant such automatic licensure upon receipt of all the below:~~

- ~~1. Payment of the initial licensure fee;~~
- ~~2. Evidence that the individual holds a substantially equivalent license in another state; and~~
- ~~3. Evidence that the applicant is a qualified applicant under Section B.~~

## **5. Occupational Licensing of Uniform Service Members, Veterans and Spouses under Act 135 of 2021**

(a) This Rule applies to a:

- (1) uniformed service member stationed in the State of Arkansas;
- (2) uniformed service veteran who resides in or establishes residency in the State of Arkansas; or,
- (3) the spouse of Section 6, Rule 5(a)(1) or (2) including a:
  - (A) uniformed service member who is assigned a tour of duty that excludes the spouse from accompanying the uniformed service member and the spouse relocates to Arkansas; or,
  - (B) uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in Arkansas.

(b) Automatic licensure shall be granted to persons listed in Section 6, Rule 5(a) if:

- (1) The person is a holder in good standing of occupational licensure with similar scope of practice issued by another state, territory, or district of the United States; and,
- (2) The person pays the licensure fee in Section 5.

(c) Credit toward initial licensure – Relevant and applicable uniformed service education, training, or service-issued credential shall be accepted toward initial licensure for a uniformed service member or a uniformed service veteran who makes an application within one (1) year of his or her discharge from uniformed service

(d) Expiration Dates – A license expiration date shall be extended for a deployed uniformed service member or spouse for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(e) Continuing Education – A uniformed service member or spouse shall be exempt from continuing education requirements in Section 7 for one

hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(f) Any uniformed service member or spouse exercising the exemption shall provide evidence of completion of continuing education evidence of before renewal or grant of a subsequent license.

## **Section 7** **Continuing Education**

- 1.** All courses for continuing education must fall within the scope of practice of massage therapy. Courses, demonstrations and workshops offered within the State of Arkansas must be submitted to the Department for prior approval for continuing education credits unless approved by NCBTMB, AMTA, or ABMP.
- 2.** For the purpose of renewing or upgrading a license, credits may be approved for courses that are:
  - (a) Pre-approved by the Department; or
  - (b) Officially transcribed courses from a U.S. Department of Education approved and accredited postsecondary institution completed with a passing grade in anatomy, physiology, kinesiology, biomechanics, pathology, medical terminology or other related courses within the scope of practice of massage therapy; orc. Out of state continuing education courses that fall within the scope of practice of massage therapy that are approved by NCBTMB, AMTA, or ABMP.
  - (c) Courses falling outside above guidelines may be submitted for consideration.
- 3.** Home study and online courses may be approved by the Department providing all the following criteria are met:
  - (a) The course is pre-approved by the Department, NCBTMB, AMTA, or ABMP. The course must fall within the scope of practice of massage therapy.
  - (b) The course content cannot be in a hands-on subject matter.
  - (c) The course or courses cannot comprise more than six (6) of the total eighteen (18) continuing education hours needed for biannual renewal and cannot be repeated for renewal or upgrade purposes.
    - (1) During a statewide state of disaster emergency related to public health, as declared by the Governor in accordance with Ark. Code Ann. §12-75-107, the MTTAC may, upon motion and vote,

temporarily suspend the requirement that no more than six (6) of the total eighteen (18) continuing education hours needed for biannual renewal be home study or online courses until such time that MTTAC determines the suspension be terminated or the statewide state of emergency has terminated or ended in accordance with Ark. Code Ann. §12-75-107.

**4.**

- (a) Each course requesting Department approval must present all required information on the forms prescribed by the Department with appropriate fees.
- (b) Courses must be relevant to the field of massage therapy as defined in Section 2 of these rules;
- (c) Courses must have the following:
  - (1) Proposed title;
  - (2) Schedule of course;
  - (3) Learning outcomes;
  - (4) Session description;
  - (5) Relevance of course;
  - (6) Program content/time frame;
  - (7) Teaching strategies; and,
  - (8) Learning environment.
- (d) Courses must be instructed by a person who meets one of the following:
  - (1) Has completed specialized related training:
    - (A) For every one hour of CE to be taught the instructor must have 5 hours of specialized related training.
    - (B) The Department may give credit for extensive experience teaching the course, related courses, or years employed in the field.
  - (2) Has obtained instructor credentials specific to the practice.
  - (3) Has discovered and/or developed massage techniques and has a minimum of two (2) years practical experience related to the subject.
  - (4) Meets s at least two (2) of the following criteria:



- (A) Holds a current Arkansas massage therapist license;
- (B) Graduated from a massage therapy school or postsecondary massage therapy school approved by the Department or a school with a comparable curriculum;
- (C) Holds a minimum of a bachelor's degree with a major in a subject related to the content of the program offered; or,
- (D) Presents to the Department evidence of a substantial amount of education, training, and knowledge sufficient, in the discretion of the Department, to qualify their expertise in the field.

**5.** Pre-approved continuing education providers must comply with the following rules:

- (a) retain an attendance record of participants with copies of course materials for at least three (3) years following the conclusion of the course;
- (b) furnish each participant with a certificate of attendance or transcript verifying the participant's successful program completion;
  - (1) The certificate shall not be issued until completion of the course.
  - (2) The certificate must contain the participant's name, instructor's name and signature, title of the course, dates the course was given, Department approval number, and number of credit hours earned.
- (c) submit course revisions to the Department for approval:
  - (1) Course Revisions are defined as changes to the following:
    - (A) Proposed title;
    - (B) Schedule of course;
    - (C) Learning outcomes;
    - (D) Relevance of course;
    - (E) Program content/time frame;
    - (F) Teaching strategies; and,
    - (G) Learning environment.
  - (2) Course revisions affecting less than ten (10) percent of the currently approved content may be approved by the Department.

- (3) Course revisions exceeding ten (10) percent of the currently approved content may be approved by the Massage Therapy Technical Advisory Committee.
- (d) One (1) hour of continuing education credit is defined as no less than fifty (50) minutes of uninterrupted in-classroom learning, practical demonstration, or practice of the technique in the presence of the instructor.
- (e) Presenters/moderators/instructors of courses may not receive credit for the courses they present.
- (f) The Department retains the right to review programs given by the provider; and may rescind provider status or reject individual programs given by provider if the provider has:
  - (1) Disseminated any false or misleading information in connection with the continuing education program; or
  - (2) Failed to conform to and comply with the written agreement and rules of the Department;
  - (3) Failed to meet ethical standards; or
  - (4) Is not providing consistent quality educational benefits to participants.
- (g) A written notice to rescind approval for continuing education courses will be sent to the course approval applicant and any person(s) approved to instruct the course.
  - (1) Instructors may request hearing of a decision to rescind approval for continuing education course(s).
  - (2) The hearing shall be conducted according to ~~Article Four~~[Section 4](#) of these rules and the Arkansas Administrative Procedures Act, § 25-15-201, et seq.
- 6.** Officially transcribed courses from a U.S. Department of Education approved and accredited postsecondary institution completed with a passing grade may be accepted at the rate of three (3) college-credit hours to equal forty (40) clock-hours of education.
- 7.** For the purpose of upgrading a license, classes that repeat any of the applicant's specific entry-level five hundred (500) hour coursework will not be accepted.
- 8.** For the purpose of upgrading a license, duplicated continuing education courses do not apply toward required hours for the upgrade.

9. The Department shall audit five to ten percent of randomly-selected, active license renewals, for compliance with continuing education requirements annually.
  - (a) Licensees who receive an audit form shall submit all appropriate documentation to substantiate compliance with the Department's continuing education requirements within thirty days of receipt.
  - (b) Each licensed massage therapist shall maintain records of continuing education for a period of (3) years from the date of attendance.

## **Section 8** **Massage Clinics**

1. With the exception of treatments that are given at the location of a client, or treatments given at a temporary location lasting not more than 14 days such as a trade show, sporting event or community festival Massage therapist clinics, spas, or other facilities must: have a adequate workspace:
  - (a) The work area must be well ventilated, clean, and well equipped.
  - (b) There must be a sink for hand-washing with hot and cold running water and soap must be accessible.
  - (c) Sanitize all body surface area(s) that come into contact with a client, prior to such contact, with a disinfecting solution that is bactericidal, capable of destroying bacteria; virucidal, capable of destroying viruses; and fungicidal, capable of destroying fungi. Disinfectants must be used according to manufacture labels to be safe and effective. Contact time listed on the manufacturers label must be adhered to at all times to effectively destroy pathogens.
  - (d) Have accessible restrooms that are clean and sanitary without offensive odors and in working order at all times.
  - (e) Keep furniture, equipment, electrical equipment and other fixtures clean and in good repair at all times.
  - (f) Launder linens after each use.
  - (g) Have a separate receptacle for soiled and clean linens.
  - (h) Keep clean linens stored out of public use areas including but not limited to restrooms, reception area, hallways and other public traffic areas.
  - (i) Keep oils, lotions, or any other products that are used on clients in containers that are labeled and closed.



- (j) Be compliant with all applicable city, state and local statutes and regulations.
  - (k) In-home massage clinics/offices must be located in a separate room or rooms, used only for massage therapy services during ordinary business operations.
  - (l) There must be no bed in a room used for massage therapy services.
  - (m) A school or clinic must be equipped with a massage table or tables, a massage chair or chairs and equipped with such standard equipment dictated by the practice of massage therapy ~~as defined in Section 2.~~
2. In-home massage clinics/offices must be located in a separate room or rooms, used only for massage therapy services during business operations.
  3. Mobile clinics are not considered temporary.
  4. Anyone who has an infectious, contagious, or communicable disease which may be spread by airborne, droplet, contact, or indirect methods and who is in contact with the public must not practice until all risk of disease transmission is cleared. Any employee with such a disease must be immediately relieved from duty until all risk of disease transmission is cleared.

## Section 9 Massage Therapy Schools and Postsecondary Massage Therapy Schools

General Requirements: School as used throughout this Section includes, unless otherwise indicated, both Massage Therapy Schools and Postsecondary Massage Therapy Schools.

### **1. Application for Massage Therapy School:**

- (a) Any person, firm or corporation seeking to open a school of Massage Therapy shall submit an application with required forms to the Massage Therapy Section office and receive pre-approval from the Department.
- (b) The application shall include:
  - (1) Completed application provided by the Department -and - available on the Department's website at <http://www.healtharkansas.com>;
  - (2) Describe the location of your school, type of structure, and furnish a detailed floor plan in compliance with ~~Article 8, Section 2~~[Section 9, Rule 4](#);

- (3) List of proposed equipment used for instructional purposes in compliance with [Section 9, Rule 4](#)~~Article 8 Section 2~~;
  - (4) Submit proposed curriculum including name and addition of textbooks and any other material that will uses for instructional purposes;
  - (5) List of instructors and their qualifications;
  - (6) Submit samples of all forms to be used in the School, such as, contract, sign-in sheets, attendance records, transcripts, guest instructor log, etc.;
  - (7) Submit a copy of your school's handbook- including refund policy. Postsecondary Schools must also include a disciplinary policy;
  - (8) Valid background checks for each owner;
  - (9) [The required non-refundable registration fee \(\\$850.00\)](#)~~Application Fee~~.
- (c) A person shall not establish, operate, or maintains a massage therapy school without first having obtained a certificate of massage therapy school licensure issued by the Department.
- (d) Any Massage Therapy School wishing to teach both secondary and postsecondary students shall obtain both a license for a Massage Therapy School and a Postsecondary Massage Therapy School. The School shall also provide a procedure by which it will ensure that only students with a high school diploma or the equivalent are enrolled in the postsecondary school and receive Title IV funds.
- (e) After satisfactory completion of initial requirements, schools are required to undergo Department inspection before they can be licensed.
- (1) A Department staff member will perform an inspection of the school premises with required forms completed, and the results of such inspection will be returned to the Department for approval and/or adjustment recommendations.
  - (2) Facilities that do not pass the first inspection will be re-inspected within thirty (30) days of notification of corrections.
- (f) Postsecondary Massage Therapy Schools must show proof that the school adopts and discloses to the students a complaint process substantially similar to the one outlined in Section Four of these Rules.

## **2. Purchase of an existing Massage Therapy School:**

(a) Any person, firm or corporation seeking to purchase an existing ~~school of~~ Massage Therapy School or Postsecondary Massage Therapy School shall submit an application with required documents to the Massage Therapy Section office at least thirty (30) days prior to purchase ~~and receive~~ for pre-approval from the Department. Each application shall include:

(1) An application ~~shall be filed~~ to reflect the change of ownership;:

(2) Valid background checks for each new owner;:

(3) Copy of the legal change of ownership document;:

(4) Copy of ~~the~~each new owner's government issued photo identification;:

(5) A signed and notarized statement from each owner selling their interest in the Massage Therapy School or Postsecondary Massage Therapy School transferring the Massage Therapy School or Postsecondary Massage Therapy School license to the new owner(s);

(6) A statement by new owner(s) reflecting any changes that will be made in any of the following:

(A) The location of the Massage Therapy School or Postsecondary Massage Therapy School, type of structure, or the detailed floor plan, in compliance with Section 9, Rule 4;

(B) List of proposed equipment used for instructional purposes, in compliance with Section 9, Rule 4;

(C) Curriculum including name and addition of textbooks and any other material that will be used for instructional purposes;

(D) List of instructors and their qualifications;

(E) Any forms to be used in the Massage Therapy School or Postsecondary Massage Therapy School, such as, contract, sign-in sheets, attendance records, transcripts, guest instructor log, etc.; and,

(F) The Massage Therapy School or Postsecondary Massage Therapy School's handbook- including refund policy. Postsecondary Massage Therapy Schools must also include a disciplinary policy.

(7) The required non-refundable registration fee (\$100.00)



(b) After satisfactory completion of requirements for transfer, the Massage Therapy School or Postsecondary Massage Therapy School shall subject to Department inspection before the transfer of ownership can be approved.

(1) A Department staff member will perform an inspection of the Massage Therapy School or Postsecondary Massage Therapy School premises with required forms completed, and the results of such inspection will be returned to the Department for approval and/or adjustment recommendations.

(2) Facilities that do not pass the first inspection will be re-inspected within thirty (30) days of notification of corrections.

### **3. Relocation of a Massage Therapy School or Postsecondary Massage Therapy School:**

(a) Any person, firm or corporation seeking to relocate a Massage Therapy school or Postsecondary Massage Therapy School shall submit an application with required forms to the Massage Therapy Section office and receive pre-approval from the Department.

(b) The application shall include:

(1) Completed application provided by the Department and available on the Department's website at [www.healthyarkansas.com](http://www.healthyarkansas.com) .

(2) Describe the location of your school, type of structure, and furnish a detailed floor plan in compliance with Section 9, Rule 4.

(3) List of proposed equipment used for instructional purposes in compliance with Section 9, Rule 4.

(4) List of instructors and their qualifications.

(5) Submit samples of all forms to be used in the School, such as, contract, sign-in sheets, attendance records, transcripts, guest instructor log, etc.

(6) Submit a copy of your school's handbook- including refund policy. Postsecondary Schools must also include a disciplinary policy.

(7) Valid background checks for each owner.

(8) The required non-refundable registration fee (\$425.00)

(c) A person shall not relocate a massage therapy school without first having obtained a certificate of massage therapy school licensure issued by the Department.

(d) Any Massage Therapy School wishing to teach both secondary and postsecondary students shall obtain both a license for a Massage Therapy School and a Postsecondary Massage Therapy School. The School shall also provide a procedure by which it will ensure that only students with a high school diploma or the equivalent are enrolled in the postsecondary school and receive Title IV funds.

(e) After satisfactory completion of initial requirements, schools are required to undergo Department inspection before they can be licensed.

(1) A Department staff member will perform an inspection of the school premises with required forms completed, and the results of such inspection will be returned to the Department for approval and/or adjustment recommendations.

(2) Facilities that do not pass the first inspection will be re-inspected within thirty (30) days of notification of corrections.

(f) Postsecondary Massage Therapy Schools must show proof that the school adopts and discloses to the students a complaint process substantially similar to the one outlined in Section Four of these Rules.

#### **2.4. Facility and Sanitary Requirements**

(a) School facilities must:

(1) Be kept clean, sanitary and in good repair at all times.

(2) Clean equipment and tools thoroughly on a routine basis and sanitize them with a disinfecting solution that is bactericidal, capable of destroying bacteria; virucidal, capable of destroying viruses; and fungicidal, capable of destroying fungi.

Disinfectants must be used according to manufacture labels to be safe and effective. Contact time listed on the manufacturers label must be adhered to at all times to effectively destroy pathogens. c. Have clinical workspace allowing for unrestricted movement around massage tables.

(3) Have adequately ventilated workspace to keep them free of excessive vapors, odors and fumes.

(4) Be heated and air-conditioned with adjustable temperature control.

(5) Have adequate space to accommodate all students during the theory and clinical instructional hours for which they are enrolled.

- (6) Have an instructional classroom that is clean, in good repair and well ventilated.
  - (7) Have a minimum of one (1) massage table for every three (3) students in class.
  - (8) Have an accessible hand-washing sink supplied with hot and cold running water, a soap dispenser and a sanitary hand drying method. Common towels are not allowed.
  - (9) Have accessible restrooms that are clean and sanitary and in working order at all times. Restrooms shall not be used for storage of products used for servicing clients.
  - (10) Have trash containers that are durable and easily cleanable that do not leak. Trash containers must be emptied daily to prevent an accumulation of garbage and the development of odors.
  - (11) Dispose of all one time use towels, sheets and protective covering that cannot be disinfected immediately after use.
  - (12) Have furniture, equipment and other fixtures that are made of washable material and kept clean and in good repair. Electrical equipment shall be kept clean and in good repair at all times.
  - (13) Launder sheets and towels to disinfect after each use on client.
  - (14) Have a separate receptacle for soiled linens.
  - (15) Keep clean linens separate from public and/or covered in public use areas.
  - (16) Keep oils, lotions or any products that are used on the public in containers that are labeled and sanitary.
  - (17) Anyone who has an infectious, contagious, or communicable disease which may be spread by airborne, droplet, contact, or indirect methods and who is in contact with the public must not practice until all risk of disease transmission is cleared. Any employee or student with such a disease must be immediately relieved from duty until all risk of disease transmission is cleared.
- (b) Schools shall have an identifiable Massage Therapy Instructor who provides oversight and supervision under which other Master Massage Therapist or Massage Therapy Instructors can teach.
- (c) Schools must adhere to all state and local ordinance and provide a copy of the fire inspection, occupancy license, and/or business permits

where required by law, and furnish copies to the Department upon request.

- (d) Schools must inform students regarding emergency evacuation procedures and clearly mark or post all routes and exits.

### **3.5. Curriculum**

- (a) Schools have the discretion to grant CLEP credit for any previously obtained, successfully passed, and officially documented classroom education relevant to massage therapy.
  - (1) Such credit may be granted at the rate of three (3) college credits to equal no more than forty (40) clock-hours.
  - (2) Schools will maintain a file copy of all such examinations for Department inspection.
- (b) Schools must follow the curriculum outlined in Ark. Code Ann. § 17-86-306(e). The curriculum must be presented to and approved by the Department and will make further applications to the Department for any substantial modifications in the subjects, contents, or instructional methods offered to the students.
- (c) Schools must provide no less than three (3) clock-hours of HIV/AIDS and other basic communicable disease education within their twenty-five (25) hours of hygiene and infectious control as required by Arkansas Code § 17- 86-306 (e)(4).
- (d) Schools that teach massage with students wearing swimsuits or underwear must instruct students at some time during their school on how to work on unclothed clients with a minimum of twenty (20) hours of classroom or student clinic massages on unclothed clients, unless there is a documented religious or medical objection made by the student.
- (e) Schools may not include more than five (5) percent of their total school curriculum of instruction with reiki, polarity, or other energy-based modalities.

### **4.6. Instruction Methods**

- (a) Each specified course of study must be outlined with a syllabus that includes written learning objectives. Instructors will follow daily lesson plans and will provide active, organized learning sessions.
- (b) Recognized methods of instruction, such as, but not limited to, lecture, demonstration, and supervised hands-on practice will be utilized to ensure reasonable learning objectives and outcomes.



- (c) All classes must be instructed and supervised by qualified and approved personnel and consist of no less than fifty (50) minutes of active teaching per credit hour. In-school independent study time is limited to no more than five (5) percent of the total hours of a program.
- (d) Active teaching means qualified school personnel offering organized lecture, activities, demonstration, and/or direct and immediate supervision of students during hands-on practice.
- (e) Written and practical evaluations shall be conducted with all grades recorded and available for inspection.

### **5.7. Instructor Qualifications**

- (a) All persons who instruct any portion of a curriculum within an approved massage therapy school must be a licensed master massage therapist or massage therapy instructor.
  - (1) Each school must have on file such diplomas, transcripts, certifications, resumes, and/or other verifiable documents that attest to the person's qualifications and technical expertise.
  - (2) Each school must be able to supply the Department with a list of instructors who have taught or who will be teaching at that school along with documentation of their qualifications and the subjects they have instructed or will instruct.
- (b) For the purposes of qualifying instructors for subjects required by Arkansas Code § 17-86-306, the following definitions will be used:
  - (1) Technical subjects are those defined as massage therapy techniques, hydrotherapy, heliotherapy, electrotherapy, and any hands-on training that may occur under various related subjects.
  - (2) Academic subjects include anatomy, physiology, pathology, and related human sciences; and
  - (3) Non-technical subjects include massage therapy laws, ethics, and business management.
  - (4) Persons to instruct technical subjects must be qualified and hold a current license as a master massage therapist or massage therapy instructor, and must have a minimum of two (2) consecutive years of active experience in the practice of massage therapy.
  - (5) Persons to instruct academic subjects must be qualified and hold a current license as a master massage therapist or massage therapy instructor as defined in Arkansas Code § 17-86-102 (6)(A) or hold a minimum of a Bachelor's degree plus two (2)

years practical experience in a subjects directly related to that being taught.

- (6) Persons to instruct non-technical subjects must be qualified and hold a current license as a master massage therapist or massage therapy instructor as defined in Arkansas Code § 17-86-102 (6)(A) or hold a minimum of a two (2) year associate's degree and two (2) years practical experience in a subject directly relates to that being taught.

- (c) Schools may invite guest instructors to teach within their program without Department pre-approval if such guest instructor instructs on no more than sixteen (16) hours per school curriculum. ~~(Section 9), 5.1 and 2~~ [Section 9, Rule 7\(a\) and \(b\)](#) show how guest instructors shall be qualified.

- (1) Schools may utilize guest instructors to provide no more than a total of twenty-five (25) hours per school curriculum. A Record of all hours of instruction provided in this manner must be maintained by the school and be made available for Department inspection upon request.

- (2) Schools must keep a log of guest instructors.

### **6-8. Student Clinical**

- (a) The purpose of any student clinical is to provide advancing students, enrolled in approved schools, an opportunity to gain practical experience working with the public in a supervised setting.
- (b) The status of the practitioner must be made clearly evident to the recipient of student massage.
- (c) Any student to be considered eligible for clinical practice must have completed the following requirements:
  - (1) one hundred (100) hours of anatomy, physiology, pathology, and contraindications for massage therapy, and one hundred (100) hours of technical training, and all portions of the school's curriculum pertaining to personal hygiene, sanitation, ethics, and professional standards; and,
  - (2) provide proof of student liability insurance.
- (d) All clinical massages by a student must be documented and performed under the supervision of a qualified technical instructor who has access to the treatment area at all times.
- (e) No more than fifty (50) hours of student massage may be attained in this manner and applied to meet the requirements for licensure.

- (f) Students may not solicit payment in any form during clinical practice either on school premises, at chosen locations for field trips, or while practicing away from school facilities and direction.
  - (1) This includes barter, donations and/or trades.
  - (2) The student may accept gratuities during supervised clinical massage.
- (g) No student may leave classroom instruction to perform student-client massages.

### **7.9. Records**

- (a) All student records must be maintained for a period of not less than five (5) years.
- (b) In the event of school closure or change of school ownership a copy of all current student records and all student records maintained for the previous five (5) years must be submitted to the Department.
- (c) Attendance records will be maintained and verified by the school and must be made available for inspection by the Department upon request. Such records must verify both the subject and the actual attendance in class of each student enrolled.
- (d) Schools must require and maintain proof of CPR training for all students at the time of their graduation.

### **8.10. Misc.**

- (a) Each school operated within the state shall be inspected during regular operations by the Department at least one (1) time each year.
- (b) Any school desiring to move the location of its license must notify the Department in writing at least thirty (30) days prior to any location change. The Department will inspect the school's new location within thirty (30) days of receiving a relocation notice.
- (c) Schools providing off-site student massages shall be allowed only under the direct supervision of a Massage Therapy Instructor or Master Massage Therapist.

## **Section 10** **Conduct & Ethics**

- 1.** It is the responsibility of the licensed massage therapist (therapists) to create and maintain a safe environment during a massage session.

2. It is the therapist's responsibility to inform clients of their rights as recipients of massage therapy including but not limited to the following:
  - (a) Their right to terminate the treatment at any time; and,
  - (b) Their right to modify the treatment at any time.
3. Therapists shall ensure and safeguard the following rights of the clients:
  - (a) Obtain necessary information from the client, to be held in confidence, regarding pertinent health history in order to assure safe treatment at all times;
  - (b) Stay within the scope of practice of massage therapy, performing only techniques for which they are appropriately and sufficiently trained; and
  - (c) Refrain, under all circumstances from initiating or engaging in any sexual conversation, sexual conduct, sexual behavior, or sexual activities involving a client, even if the client attempts to sexualize the relationship.
4. The licensed massage therapist adheres to the following practices:
  - (a) Keeping licensure current;
  - (b) Conducts all aspects of their massage practice in a legal, ethical, and responsible way; and,
  - (c) Reports to the Department in writing and under oath any knowledge of violations of the Massage Therapy Act or the adopted Rules.
5. Violations of any provision under this Section may result in disciplinary action by the Board of Health, up to and including revocation of licensure in accordance with the procedures adopted in ~~Article Four (4)~~[Section 4](#) of these rules.

## **Section 11**

### **Miscellaneous Guidelines**

1. Massage Therapy must be provided in a way that ensures the safety, comfort, and privacy of the client and therapist.
2. Clients receiving a massage must be draped or dressed to assure that the pubic area and genitals are not exposed.
3. A licensee who engages in the practice of massage therapy of the anus and genitalia shall have his or her license revoked for a period of three (3) years. The licensee will receive a hearing in accordance with the process outlined in



~~Article Section Four 4~~ and the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et seq.

- 4.** The breast of a client may be treated under the following circumstances:
  - (a) The massage of the breasts is for therapeutic and medical purposes including, without limitation, the reduction of scar tissue following a surgery on the breast, release of myofascial binding, or improving lymphatic flow;
  - (b) The massage therapist has received at least forty-eight (48) hours of continuing education credits in lymphatic massage, myofascial massage, or oncology massage; and
  - (c) there is a valid request from the client, the valid prescription is presented, or there is a referral from a qualified medical professional.
  - (d) A client's breast may not be exposed without first having obtained prior written, signed consent.
  - (e) A written description and explanation is given to the client before the massage begins and permission granted again before uncovering the breast.
  - (f) Treatments must be noted on the client's assessment form.
- 5.** The MTTAC shall revoke the license for a period of three (3) years of a licensee who engages in the practice of massage therapy of the breast tissue without following the process outlined in Paragraph 5 above.
- 6.** Requirements for practicing cupping therapy:
  - (a) The Massage Therapist must have a minimum of six (6) hours in- class, specialized training in cupping therapy which shall include indications, contraindications, hygiene, and hands on techniques.
  - (b) When the six (6) hours of specialized training is provided as part of the curriculum in a massage therapy school or postsecondary massage therapy school, the transcript shall indicate course hours in cupping therapy or a certificate of successful completion shall be issued to the student.