



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

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, 2022, 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.



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

- 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 times 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 legislative 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



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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.



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

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.



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

AGENCY RESPONSE:

Under the current Rules for Massage Therapy, the 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 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



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

- 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.healthylarkansas.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,



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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.

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



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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.



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

Leigh Ann Warriner

Received comments during the public hearing on Mary 23, 2022

- Education is not adequate for what's being asked for us 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



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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 be 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



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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:

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.

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.



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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. ADH has and will continue to coordinate with MTTAC to review and update the list of approved examinations required for licensure through any program.

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



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

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.