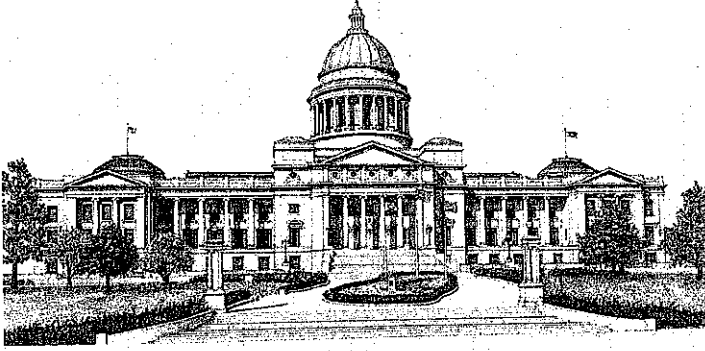


# ARKANSAS REGISTER

## Transmittal Sheet

\* Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State  
**Mark Martin**  
State Capitol, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-3527  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office  
Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas State Board of Massage Therapy

Department \_\_\_\_\_

Contact Marilyn L. Graham E-mail marilyn.graham@arkansas.gov Phone 501-683-1448

Statutory Authority for Promulgating Rules \_\_\_\_\_

Rule Title: Arkansas State Board of Massage Therapy Emergency Rules

Intended Effective Date  
(Check One)

- Emergency (ACA 25-15-204)  
 30 Days After Filing (ACA 25-15-204)  
 Other \_\_\_\_\_  
(Must be more than 30 days after filing date.)

Date

Legal Notice Published \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Reviewed by Legislative Council \_\_\_\_\_

Adopted by State Agency \_\_\_\_\_

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Marilyn L. Graham \_\_\_\_\_ June 29, 2015  
Contact Person \_\_\_\_\_ E-mail Address \_\_\_\_\_ Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. (ACA 25-15-201 et. seq.)

Marilyn L. Graham  
Signature

501-683-1448 \_\_\_\_\_  
Phone Number \_\_\_\_\_ E-mail Address \_\_\_\_\_

Executive Director

Title

June 29, 2015

Date

June 23, 2015

During a conference call on Tuesday, June 23, 2015, the Arkansas State Board of Massage Therapy voted to adopt the rule and make this finding:

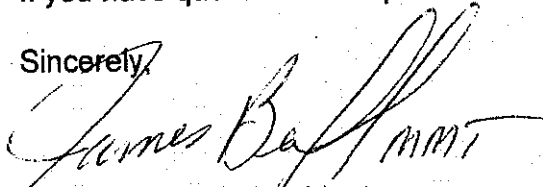
*A school of massage therapy that offers a postsecondary curriculum approved by the Department of Health and whose enrollment is made up of only students who have a high school diploma or its equivalent. This allows issuance of dual massage therapy school licenses. A statement certifying that the owner(s)/director(s) of the proposed postsecondary shall provide no less than six-hundred (600) hours of continuous training for all massage therapy students enrolled.*

This rule needs to be promulgated on an emergency basis in order for the board to be in compliance with federal law, as provided by Ark. Code Ann. 25-15-204(b)(1), which states:

"If an agency finds that imminent peril to the public health, safety, or welfare or compliance with federal laws or regulations requires adoption of a rule upon less than thirty (30) days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon an abbreviated notice and hearing that it may choose, to adopt an emergency rule."

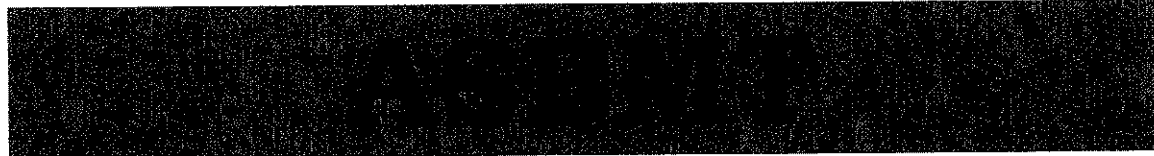
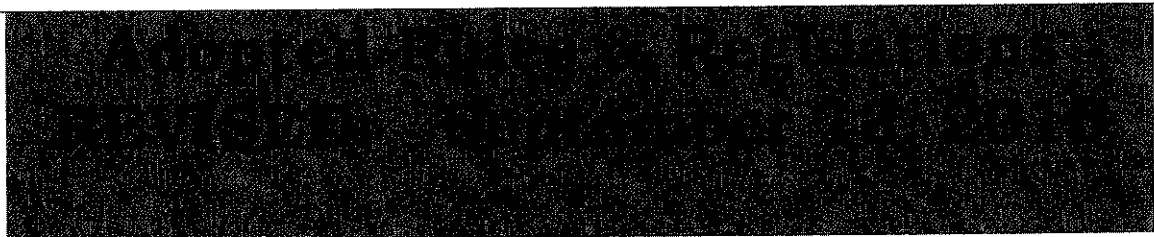
If you have questions or require further information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "James Benefiel" followed by the initials "MMT". The signature is written in a cursive style.

James Benefiel, President  
Arkansas State Board of Massage Therapy

# **ARKANSAS STATE BOARD OF MASSAGE THERAPY**



**101 East Capitol, Suite 460  
P.O. Box 2019  
Little Rock, AR 72203**

**Phone: 501-683-1448  
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## Article One

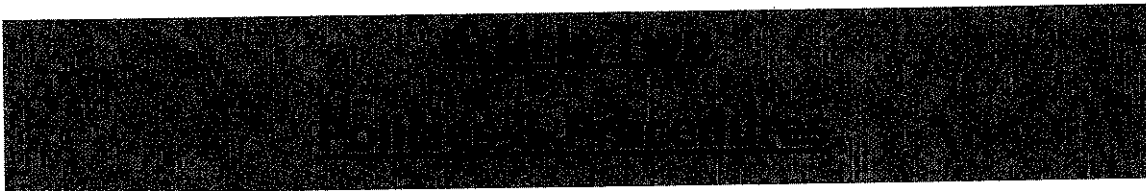
### Principles, Methods and Definitions

1. 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.

"Massage therapy" means to engage in the practice of any of the following procedures:

- (A) All massage therapy techniques and procedures, either hands-on or with mechanical devices;
  - (B) Therapeutic application and use of oils, herbal or chemical preparations, lubricants, nonprescription creams, lotions, scrubs, powders, and other spa services;
  - (C) Therapeutic application of hot or cold packs;
  - (D) Hydrotherapy techniques;
  - (E) Heliotherapy;
  - (F) Electrotherapy;
  - (G) Any hands-on bodywork techniques and procedures rising to the level of the techniques and procedures intended to be regulated under this chapter and not covered under specific licensing laws of other boards.
2. **Hydrotherapy** is defined as 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.
  3. **Heliotherapy** is defined as 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 Board.
  4. **Electrotherapy** is defined as 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. Therapists must demonstrate training in the use of electrical devices other than simple mechanical vibrators and present qualifications acceptable to the Board before using such devices.

5. **Practices involving the use of ultrasound** are outside the scope of massage therapy unless the therapist can present educational qualifications acceptable to the Board and a licensed physician prescribes the treatment.
6. **Depilation, waxing, extractions, and electrolysis** are not within the scope of massage therapy.
7. **Colonic irrigation** and other methods of internal hydrotherapy are not within the scope of massage therapy.
8. **Direct supervision** is defined as "being in the physical presence of a licensed master massage therapist or massage therapy instructor."
9. **Assist** is defined as "acting as an aide to a master massage therapist or massage therapy instructor."
10. **Continuing Education** is defined as education that is acquired after individual has graduated and become licensed as a massage therapist.
11. **Guest Instructor** is defined as a qualified speaker or presenter who does not teach more than sixteen (16) clock hours in a school curriculum.



1. The Board designates all forms and letters to accompany requests such as applications for licensure, licensing renewals, applications for upgrades to master, massage therapy instructor, continuing education program applications, school applications, satellite school applications, school renewals, school and/or clinic inspections, and any other such forms and letters, as necessary.
2. The Board meets on a pre-determined quarterly basis and at other times as deemed necessary by the Board and follows all requirements of the Freedom of Information Act and all other applicable State laws in conducting such meetings.
  - a. The Board may adopt *Robert's Rules of Order* or such other procedures or methodologies, as it deems necessary.

3. Applications to the Board for approval of licensures, upgrades to master massage therapist or massage therapy instructor, continuing education program courses, school licensure, satellite schools, and all requests from members of the public for items to be placed on the Board's agenda must be submitted to the Board's Executive Director in writing and with an original and identical seven collated copies postmarked at least thirty (30) days prior to the applicable Board meeting.
  - a. Incomplete applications will be returned to the applicant by regular U.S. Mail.
4. A copy of the Massage Therapy Law and a copy of the latest adopted Rules and Regulations shall be posted on the Board's website and available for download.
5. All persons applying for any level of licensure are required to have their background reviewed through a criminal records check including of taking of fingerprints.
6. Applicants are responsible for the costs of a state and federal records check and should arrange to submit to the records check prior to submitting an application to the Arkansas State Board of Massage Therapy for licensure.
  - a. The Arkansas State Board of Massage Therapy may require each original applicant and each upgrade applicant for a license issued by the Arkansas State Board of Massage Therapy to apply to the Identification Bureau of the Department of Arkansas State Police for a state and federal criminal background check to be conducted by the Identification Bureau and the Federal Bureau of Investigation;
  - b. The state and federal criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints;
  - c. The applicant shall sign a release of information to the Arkansas State Board of Massage Therapy and shall be responsible for the payment of any fees associated with the state and federal criminal background check;
  - d. 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.

- e. Results shall be sent directly to the Arkansas State Board of Massage Therapy from the agency performing the state and federal criminal background check.
7. Unless waived by the Board, no applicant is eligible to receive or hold a license issued by the Board "*if the applicant has pleaded guilty or nolo contendere to or been found guilty of a felony or Class A misdemeanor or any offense involving fraud, theft, or dishonesty.*"
  - a. The Arkansas State Board of Massage Therapy, at its sole discretion and upon written request from the applicant, may consider waiver of the bar to eligibility to licensure as provided in Ark. Code Ann. § 17-86-203(e)-(h).
8. Applicants for licensing are considered who have completed and graduated with a minimum of 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 of higher.
9. Individuals who perform "rubdowns" or apply tanning lotions, oils, or apply other substances over the body of clients must hold a current massage license or a license from another discipline and are allowed to use only such procedures as are within the limits of their respective licenses and scope of practice.
  - a. Each service performed without a massage license will constitute a violation of *Arkansas Code* 17-86-101 and will be subject to penalties under 17-86-103.
10. As a part of the original approval process, the Board considers only U.S. State-approved medical doctors, nurse practitioners and departments of health, and their equivalents, as qualified health care providers for purposes of certifying health compliance. A copy of the verifiable statement or health card issued by such providers indicating that the holder is free from contagious tuberculosis must be provided and meet the requirements of *Arkansas Code* 17-86-303(a)(5).



## Article VIII

### COMPLAINTS & APPEALS

1. The Complaint Committee is comprised of the Board's Executive Director or Interim Designee, Board President or their appointed Board member, and the Attorney General's representative, who advises the Committee without a vote.
2. Complaints against licensees, making reports of suspected violations and other information must be written, signed and notarized by the complaining party and submitted to the Executive Director of the Board.
3. For the purpose of adjudicative hearings on complaints, the Board adopts the Model Rules of Procedure for Regulatory and Licensing Agencies as promulgated by the Arkansas Attorney General, which are provided upon request to the Attorney General's office, found online at: <http://ag.arkansas.gov/pdfs/modelrules.pdf> and all adjudicated hearings shall comply with the Arkansas Administrative Procedures Act, § 25-15-201 et. seq.
4. The Board has the authority and obligation to investigate all such written complaints, and its Executive Director may, in his or her discretion or at the direction of the Board, investigate and refer to the Complaint Committee any information that comes to their attention constituting reasonable belief that a violation of law or rule has occurred.
5. Complaints regarding the Board or its officers may be directed in writing to the Board's President for necessary action.

1. The Board may administer an examination of its own preparation as the State licensing examination for Arkansas massage therapists.
2. The Board may accept the Federation of State Massage Therapy Board Massage and Bodywork Licensing Exam (MBLEx) in lieu of the State licensing examination provided that the applicant passes a Board examination that verifies their knowledge of the Massage Therapy Act and of these rules and regulations that govern the practice of massage therapy in the State.

3. In the instance of multiple exams, the Board reserves the right to choose specific exams.
4. The Board 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.
  - a. The Board determines the location for practical examinations.
    1. When a practical examination is deemed necessary or desirable, the examinations may be held at various massage schools or at any other location chosen by the Board.
  - b. Guidelines for massage and draping techniques will be tested at all locations.
    1. The Board will be testing the draping of unclothed clients.
      - a. However, exceptions may be allowed for documented medical or religious reasons.



1. All courses for continuing education must fall under the scope of practice of the ASBMT as relates to Principles and Methods of Article One.
2. Courses, demonstrations and workshops offered within the State of Arkansas, must be submitted to the ASBMT for prior approval for continuing education credits.
3. For the purpose of renewing or upgrading a license, credits may be approved for courses that are:
  - a. Pre-approved by the Board; or
  - b. Officially transcribed college level courses completed with a passing grade C or higher in anatomy, physiology, kinesiology, biomechanics, pathology, medical terminology or other related courses within the scope of practice of Article One and accepted by the Board;
  - c. Out of state continuing education courses with prior approval of another state board of massage therapy or

certified professional massage therapy boards as relates to Principles and Methods of Article One (1) of these rules.

4. Home study and online courses may be approved by the ASBMT providing all the following criteria are met.
  - a. The course is pre-approved by the ASBMT or either another state board of massage therapy or another certified professional massage therapy board.
  - b. The course must fall within the scope of practice as stated in Article One of these rules and regulations.
  - c. The course must be in a non hands-on subject matter.
  - d. 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.
5. Each course requesting ASBMT approval must present all required information on the forms prescribed by the Board and include an original with seven (7) identically collated duplicates (for a total of eight (8) along with appropriate fees).
  - a. Courses must be relevant to the field of massage therapy and the Principals and Methods stated in Article One of these rules;
  - b. Courses must have written, clearly defined learning objectives, subject matter and teaching methods.
  - c. Courses must be instructed by a person who has completed specialized related training, or has obtained instructor credentials specific to the practice, or has discovered and/or developed massage techniques, and who has a minimum of two (2) years practical experience related to the subject, and who meets at least two of the following criteria:
    1. Holds a current Arkansas massage therapist license;
    2. Graduated from a massage therapy school approved by the Board or one which has a comparable in-classroom five hundred (500) hours curriculum;
    3. Holds a minimum of a bachelor's degree with a major in a subject related to the content of the program offered;

4. Presents to the Board evidence of a substantial amount of education, training, and knowledge sufficient, in the discretion of the Board, to qualify their expertise in the field.
6. Pre-approved continuing education providers must comply with the following rules:
    - a. Continuing education course providers must retain an attendance roster of participants with copies of materials for at least three years following the conclusion of the course.
    - b. Continuing education course providers must furnish each participant with a certificate of attendance or transcript verifying the successful participant's program completion;
      1. The certificate shall not be issued until completion of the course and must contain the participant's name, instructor's name and signature, title of the course, dates, Board approval number, and number of credit hours.
    - c. Continuing education course providers must submit notification to the Board of any significant changes in their approved education program and submit to the Board forms for approval for any substantial changes or additional subjects that they may wish to offer;
    - 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 Board retains the right to audit and/or monitor 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 Board;
      3. Failed to meet ethic 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 person(s) approved to instruct the course.
  - a. Instructors may request administrative adjudication of a decision to rescind approval for continuing education course(s), which shall be conducted according to procedures adopted in Article 3 of these rules and in accordance with the Arkansas Administrative Procedures Act, § 25-15-201 et seq.
7. Officially transcribed college level courses may be accepted at the rate of three (3) college-credit hours in equal forty (40) clock-hours of education.
8. 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.
9. For the purpose of upgrading a license, duplicated continuing education courses do not apply toward required hours for the upgrade.
10. Instructors may only teach courses that reflect a percentage level of their training consistent with hours of credit being offered by the instructor.
  - a. No more than twenty (20) percent of the hourly credit can be offered in relation to the training received by the instructor.
    1. For example, if a trainer takes an approved thirty (30) hour continuing education program, he or she would qualify to teach a six (6) hour course in that particular subject.
  - b. At the Board's discretion, credit may be given for extensive experience teaching the course and/or related courses, and/or years employed in the field.
11. The Board may audit or direct Board staff to audit a percentage of randomly-selected, active licensees, as determined by the Board, for compliance with continuing education requirements.
  - a. Licensees who receive an audit form shall submit all appropriate documentation to substantiate compliance with the Board's continuing education requirements.

- b. Each licensed massage therapist shall maintain records of continuing education for a period of (3) years from the date of attendance.

12. Disciplinary action for violations of rules of the Conduct and Ethics will be conducted in accordance with the procedures adopted in Article Three of these rules.

## ARTICLE SIX Massage Clinics

1. Massage therapists working in bathhouses, clinics, spas, or other facilities must be given adequate workspace.
  - a. The work area must be well ventilated, clean, and well equipped.
2. In-home massage clinics/offices must be located in a separate room or rooms, used only for massage therapy services during ordinary business operations.
  - a. There must be no bed in a room used for massage therapy services.
3. Therapists must comply with all city, county, and/or state regulations.

## ARTICLE SEVEN Massage Schools

### General Requirements

1. School applications will be complete in every aspect and verify compliance with the Massage Therapy Act, all relevant Rules and Regulations of the Board, and sound educational principles.
2. Each school is required to furnish such information and documents as may be required by the Board and must comply with all valid requirements of the Board or be subject to suspension or revocation of licensure.
3. The Board may accept training hours submitted by applicants for licensure who graduated from out-of-state schools only upon verification that such

education was received as in-classroom instruction and such programs follow or followed similar procedures as required of in-state schools.

4. It is the duty of the Board under law to inspect all schools operated within the state each year.
  - a. The Board or its authorized agent conducts such perform inspections during regular operations causing a minimum of disruption to any class that may be in session.
  - b. Inspections include facility evaluations as well as necessary review of records to ensure compliance with the massage therapy act and all other rules and regulations pertaining to operation of a licensed school.
  - c. Schools shall have an identifiable Massage Therapy Instructor who provides oversight and supervision under which other Master Massage Therapist or Massage Therapy Instructor can teach.
5. Prior to operating any phase of training, massage therapy schools within the State of Arkansas must apply for licensing, receive licensing approval, and maintain valid licensing.
6. 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 Board upon request.
7. After satisfactory completion of initial requirements, schools are required to undergo Board inspection.
  - a. An inspector, Board member or staff member will make inspection of the school premises with required forms completed, and the results of such inspection will be returned to the Executive Director of the Board with approval and/or adjustment recommendations.
  - b. Facilities that do not pass the first inspection are eligible for re-inspection.
    1. When failures are corrected and the Board is advised that corrections are completed, a second inspection to determine the school's compliance with requirements for licensure will be made within thirty (30) days.
8. Any school desiring to move the location of its license must notify the Board in writing at least thirty (30) days prior to any location change.

- a. The Board will inspect the school's new location within thirty (30) days of receiving a relocation notice.
9. Schools must inform students regarding emergency evacuation procedures with routes and exits posted.
    - a. Smoke detectors must be installed and maintained in working order.
    - b. Fire extinguishers must be easily accessible.
  10. Schools have the discretion to grant CLEP credit for any previously obtained, successfully passed, and officially documented classroom education only upon a student's passing such examinations as required by the school.
    - a. Such credit may be granted at the rate of three (3) college credits to equal no more than forty (40) clock-hours.
    - b. Schools will maintain a file copy of all such examinations for Board inspection.

#### Facility Requirements

11. Schools must provide an atmosphere that is conducive to learning.
  - a. Space must be sufficient for unrestricted movement around massage tables.
  - b. Lighting, ventilation, and temperature control must be adequate.
  - c. Educational equipment must be in evidence, such as chalk or marker Boards, charts, or other appropriate teaching aids.
  - d. School facilities and equipment must be maintained in clean and operable condition.
12. Schools will provide students with desks, and/or tables and chairs, and adequate space to accommodate all students during the class hours for which they are enrolled.
  - a. The school facilities must include a minimum one (1) massage table for every three (3) students in class.
13. A minimum of one hand-washing sink supplied with a filled soap dispenser and a sanitary hand drying method must be easily accessible.



14. Alcohol or illicit drug use is prohibited on school premises or at any school function.
15. A duplicate of all student records for the immediately preceding five (5) year period must be kept off the school premises.
  - a. This duplicate may be either a paper copy or in a form that may reproduce the copies by computer.

#### Instruction Methods

16. Schools must follow a curriculum which has been presented to and approved by the Board and will make further applications to the Board for any substantial modifications in the subjects, contents, or instructional methods offered to the students.
17. Each specified course of study must be outlined with a syllabus and written learning objectives. Instructors will follow daily lesson plans and will provide active, organized learning sessions.
  - a. 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.
18. 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 study time is limited to no more than five (5) percent of the total hours of a program.
19. Active teaching means a qualified school instructor offering organized lecture, activities, demonstration, and/or direct and immediate supervision of students during hands-on practice.
20. Written and practical evaluations shall be conducted with all grades recorded.
  - a. The Board, upon request, may make such information available for inspection.
21. Attendance records will be maintained and verified by the school and must be made available for inspection by the Board upon request.
  - a. Such records verify both the subject and the actual attendance in class of each student enrolled.
22. Schools must maintain factual records of the first-time pass/fail rates on required Board examinations of all graduates of their program.

- a. Such records must be inspected each year, and any school whose graduates do not maintain a seventy-five (75) percent first-time pass rate average on Board examinations is subject to probations, suspension, and/or revocation of licensure.
23. Schools must provide all students with knowledge of location where to obtain a copy.
  24. 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)*.
  25. Schools must require and maintain proof of CPR training for all students at the time of their graduation.
  26. 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 unless there is a documented religious or medical objection made by the student.
  27. Schools may not include more than five (5) percent of their total school curriculum of instruction with reiki, polarity, or other energy-based modalities.

#### Instructor Qualifications

28. All persons who instruct any portion of a curriculum within an approved massage therapy school must have received adequate training and experience to possess a high degree of knowledge and competency in any and all subjects they are to instruct.
29. 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.
30. Each school must be able to supply the Board with a list of the 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.
31. For the purposes of qualifying instructors for subjects required by *Arkansas Code § 17-86-306*, the following definitions will be used:

- a. Technical subjects are those defined as massage therapy techniques, hydrotherapy, heliotherapy, electrotherapy, and any hands-on training that may occur under various related subjects.
  - b. Academic subjects include anatomy, physiology, pathology, and related human sciences; and
  - c. Non-technical subjects include massage therapy laws, ethics, and business management.
32. 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) years of consecutive and active experience in the practice of massage therapy.
33. 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.
34. 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.
35. Massage therapy schools must use qualified licensed master massage therapists, massage therapy instructors, and/or medical personnel within the scope of their professional background as instructors, or may allow other licensed professionals to teach within their field of expertise.
36. Schools may invite guest instructors to teach within their program without Board pre-approval if such guest instructor presents no more than sixteen (16) hours per school curriculum. Article Seven (7) paragraphs # 32, 33 and 34 show how guest instructors shall be qualified.
- a. Schools may utilize guest instructors to provide no more than a total of twenty-five (25) hours per school curriculum.
    - 1. Record of all hours of instruction provided in this manner must be maintained by the school and be made available for Board inspection upon request.
  - b. Schools must keep a log of guest instructors.

- c. If the Board should raise the total hours required for students to complete the program, then the Board has the option to increase the allowed number of hours of guest instruction above the twenty-five (25) hour maximum.

#### Student Clinical

- 37. 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.
  - a. The school follows such practices as are consistent with the above stated intent.
- 38. The status of the practitioner must be made clearly evident to the recipient of student massage.
- 39. Any student to be considered eligible for clinical practice must have completed the following requirements:
  - a. Have successfully completed 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;
  - b. Have on file at the school a recently issued statement by a physician declaring them to be in good health and negative for tuberculosis; and
  - c. Have enforced student liability insurance and provide proof thereof.
- 40. All clinical massages must be documented and performed under the supervision of a qualified technical instructor who has access to the treatment area at all times.
  - a. No more than fifty (50) hours of student massage may be attained in this manner and may be applied to meet the requirements for licensure.
- 41. 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.
  - a. This includes barter, donations and/or trades.

- b. The student may accept gratuities during supervised clinical massage.

42. Schools may charge a reduced fee for student clinical massages.

43. Schools must provide upon request by the Board all such evidence as may be required to determine compliance with these and all other rules of this Board.

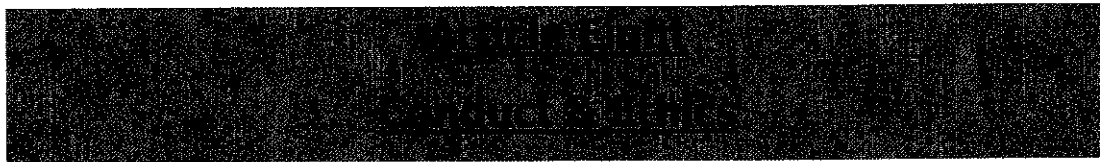
44. No student may leave classroom instruction to perform student-client massages.

45. Schools abusing the student-client massage relationship are subject to sanctions by the Board.

46. Schools providing off-site student massages shall be allowed only under the direct supervision of a Massage Therapy Instructor or Master Massage Therapist.

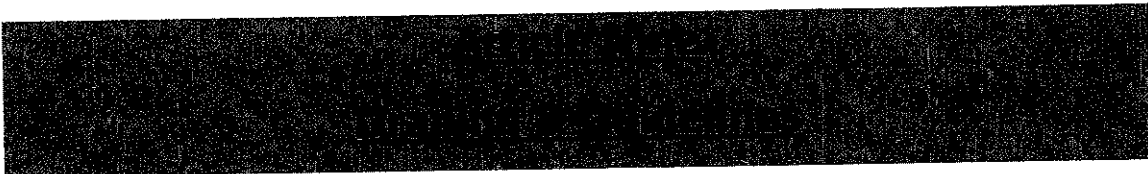
47. A school of massage therapy that offers a postsecondary curriculum approved by the Department of Health and whose enrollment is made up of only students who have a high school diploma or its equivalent. This allows issuance of dual massage therapy school licenses.

48. A statement certifying that the owner(s)/director(s) of the proposed postsecondary school shall provide no less than six-hundred (600) hours of continuous training for all massage therapy students enrolled.



1. It is the responsibility of the licensed massage therapist to create and maintain a safe and comfortable environment that engenders trust and mutual respect during a massage session.
2. It is the therapist's responsibility to inform clients of their rights as recipients of massage therapy.
3. Massage 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. Inform the client of their right to terminate or modify their treatment at any time;

- c. Stay within the scope of practice of massage therapy, performing only techniques for which they are appropriately and sufficiently trained;
  - d. Refer all clients to appropriate health care practitioners or other professionals as such need arises; and
  - e. 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;
  - c. Upholds the highest standards of concern and respect for the well being of their clients;
  - d. Reports to the Board in writing and under oath any knowledge of violations of the Massage Therapy Act or the adopted Rules and Regulations; and
  - e. Wears proper and professional attire that is suitable and consistent with accepted business and professional practices.
5. Violations of any provision under this article may result in disciplinary action by the Board, up to and including revocation of licensure.
6. Disciplinary action for violations of rules of Conduct and Ethics will be conducted in accordance with the procedures adopted Article Three (3) of these rules.



- 1. Draping and treatment are provided in a way that ensures the safety, comfort, and privacy of the client and therapist.

2. Both the client and the therapist require that draping takes place during the massage, and the therapist will comply with the client's request to remain partially or fully clothed under the drape.
3. Clients receiving a massage must be draped to assure that the pubic area and genitals are not exposed.
4. The Board shall revoke the license for a period of three (3) years of a licensee who engages in the practice of massage therapy of the anus and genitalia.
5. The breast of a female client may be treated only if there is a valid health maintenance request from the client or upon being presented with a prescription or referral from a qualified medical professional.
  - a. A female client's breast may not be exposed without first having obtained her prior written, signed consent.
  - b. A written description and explanation is to be given before the massage begins and permission granted again before uncovering the breast.
    1. Treatments must be noted on the client's assessment form.
6. The Board shall revoke the license for a period of three years of a licensee who engages in the practice of massage therapy of the breast tissue unless:
  - a. Documented clinical indications or a physician prescription shall be required and this documentation shall be included in the client's records.
  - b. Breast Tissue massage shall only be done for the reduction of scar tissue following surgery, releasing myofascial binding or improving lymphatic flow.
  - c. A massage therapist shall have a minimum of forty-eight (48 CEU) hours in advanced training in techniques related to therapeutic treatment of breast tissue in lymphatic massage, myofascial massage, or oncology massage.

1. Every massage therapy license, active or inactive, is valid for a period of two (2) years.
  - a. Renewal licenses may be issued upon submission of a completed license renewal application, payment of appropriate fees, by cashiers check or money order, and have documented proof of no fewer than eighteen (18) hours of continuing education that have been approved in Article 5.
  - 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 biannual renewal year.  
*Example: Joe's birthday is June 14<sup>th</sup> 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 in addition to renewal fees.
  - d. A license is expired if application is postmarked after the birthday of the licensee in the biannual renewal year.
    - (1) Before the Board 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 Board.
2. 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:
  - a. A licensee must submit a renewal application for inactive status every two (2) years, even if remaining inactive.
  - b. Must surrender his or her current license to the Board office.
  - c. Cannot practice massage therapy during the time licensee is on the inactive list.



- d. May remain on the inactive list for a period not 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 required to meet current requirements and must successfully complete an examination recognized by the Board before resuming active practice of massage therapy.
4. Persons practicing with an expired license may be prosecuted for practicing without a license and penalties of *Arkansas Code* § 17-86-103 will be applied.

## Article Eleven Reciprocity

1. The Board may enter into reciprocal relations with other states and territories whose licensure requirements are much the same as those provided in this chapter.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT Arkansas State Board of Massage Therapy

DIVISION \_\_\_\_\_

PERSON COMPLETING THIS STATEMENT Marilyn L. Graham

TELEPHONE NO: 501-683-1448 FAX NO: 501-683-1426 EMAIL: marilyn.graham@arkansas.gov

**FINANCIAL IMPACT STATEMENT**

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE**

Emergency ASBMT Rules and Regulations

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?  
Yes \_\_\_\_\_ No  \_\_\_\_\_
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

**Current Fiscal Year**

General Revenue N/A  
Federal Funds N/A  
Cash Funds N/A  
Special Revenue N/A  
Other (Identify) N/A  
Total N/A

**Next Fiscal Year**

General Revenue N/A  
Federal Funds N/A  
Cash Funds N/A  
Special Revenue N/A  
Other (Identify) N/A  
Total N/A

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule, and explain how they are affected.

**Current Fiscal Year**

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____

**Next Fiscal Year**

5. What is the total estimated cost by fiscal year to the agency to implement this rule?

**Current Fiscal Year**

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$0 _____	\$0 _____
\$0 _____	\$0 _____

**Next Fiscal Year**

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS**  
**WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

**DEPARTMENT/AGENCY:** Arkansas State Board of Massage Therapy  
**DIVISION:** \_\_\_\_\_  
**DIVISION DIRECTOR:** Marilyn L. Graham  
**CONTACT PERSON:** Marilyn L. Graham  
**ADDRESS:** 101 East Capitol, Suite 206, P.O. Box 2019, Little Rock, AR 72203  
**PHONE NO:** 501-683-1448 **FAX NO:** 501-683-1426 **E-MAIL:** marilyn.graham@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Marilyn L. Graham  
**PRESENTER E-MAIL** marilyn.graham@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 Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis**  
**Subcommittee on Administrative Rules and Regulations**  
**Arkansas Legislative Council**  
**Bureau of Legislative Research**  
**Room 315, State Capitol**  
**Little Rock, AR 72201**

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1. What is the short title of this rule?  
Emergency ASBMT Proposed Rules and Regulations

2. What is the subject of the proposed rule?  
Postsecondary curriculum

3. Is this rule required to comply with federal statute or regulations? Yes  No   
If yes, please provide the federal regulation and/or statute citation.

34 CFR 600.9(a) and (b)

(a)(1) An institution described under §§600.4, 600.5, and 600.6 is legally authorized by a State if the State has a process to review and appropriately act on complaints concerning the institution including enforcing applicable State laws, and the institution meets the provisions of paragraphs (a)(1)(i), (a)(1)(ii), or (b) of this section.

(i)(A) The institution is established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action issued by an appropriate State agency or State entity and is authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.

(B) The institution complies with any applicable State approval or licensure requirements, except that the State may exempt the institution from any State approval or licensure requirements based on the institution's accreditation by one or more accrediting agencies recognized by the Secretary or based upon the institution being in operation for at least 20 years.

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? June 29, 2015.

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 regulation.

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 Arkansas Code citation. §17-86-101

7. What is the purpose of this proposed rule? **To provide interpretation and application guidelines regarding state law as indicated in the Massage Therapy Law and to communicate established procedures and requirements. Why is it necessary? To comply with USDOE curriculum requirement.**

8. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please complete the following:  
Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Place: \_\_\_\_\_

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

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

11. Do you expect this rule to be controversial? Yes  No  If yes, please explain.

12. 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.  
\_\_\_\_\_