



MEMORANDUM

TO: Emily Kaylor, Regulatory Policy Advocate
Common Sense Initiative Office

FROM: Sallie Debolt, Senior Counsel

RE: Proposed changes to proposed rule 4731-1-24: Massage therapy renewal and continuing education

DATE: March 9, 2017

On March 8, 2017, the State Medical Board of Ohio approved amendments to proposed rule 4731-1-24, to reflect some of the comments received about the rule filed on October 25, 2017, and currently pending. This memo discusses the substantive amended language proposed.

SUMMARY OF COMMENTS:

The comments generally can be categorized as falling in to one or more of the following areas:

- Twenty-four hours are too many to require because of the low pay of massage therapists (“MT”s) and/or it would be a hardship to take time off or travel to take the courses;
 - There should be an exemption for an MT who has practiced 10-15 years;
 - There should be an exemption for the first renewal; or all current licensees should be exempted;
 - MTs shouldn’t have to pay sales taxes;
 - MTs aren’t providers under insurance;
 - Human trafficking courses are inappropriate;
 - Add Federation of State Massage Therapy Boards (“FSMTB”) as a provider;
 - It is unfair that relaxation massage providers don’t have to take continuing education;
 - Most MTs specialize in one modality in Ohio;
 - Should accept on-line courses;
 - The human body doesn’t change so there are no new modalities to learn;
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The general summary of the comments was shared with the interested parties who make up the advisory committee. Comments concerning the payment of sales taxes, lack of provider status under insurance policies, and the lack of regulation over relaxation massage are matters over which the Medical Board has no control. However, after discussion with the CSI staff and the advisory committee, the Medical Board staff proposed to make the following changes to the proposed rule, which changes were approved by the Medical Board on March 8, 2017.

Paragraph (A): Definitions of “distance learning” and “home study coursework” are added. Paragraph (D)(3) then states that courses may be in-person, distance learning, or home study.

Paragraph (C):

- (1) Changes the number of required hours to twelve, instead of twenty-four.
- (2) Exempts the first-time renewal from the continuing education requirement.

Old Paragraph (D): Deleted. The exemption for the first-time renewal makes the originally proposed paragraph unnecessary.

Old paragraph (E), now (D):

- (1) Required hours changed to twelve instead of twenty-four, with hours for required subjects adjusted accordingly. The Ethics and Ohio law are combined into a one-hour course requirement. The requirement for a course of Human Trafficking continues as it is consistent with the policies of the State of Ohio.
- (2) No changes
- (3) The introduction clarifies that acceptable courses may be presented via in-person, distance learning, or home study.
 - (a) The NCBTMB website address is given in order to facilitate finding providers approved by that organization.
 - (d) The Ohio Council of Schools is deleted because it has disbanded.
 - (g) The FSMTB is added as an approved provider and as an approver of providers.
- (5) The number of hours acceptable via home study coursework is reduced to three.

Paragraph (I) is added to permit a waiver of up to five hours of continuing education based upon a licensee's illness or absence from the United States that lasts for a minimum of six consecutive months during a licensing period, when requirements are met.

It should be noted that some participants in the advisory committee telephone conference objected to the decrease in the number of required hours to less than twenty-four and to the

addition of the FSMTB as an approver and/or provider of continuing massage therapy education.

- The objections voiced about the decrease in hours included that the majority of states that require continuing education require at least twenty-four hours and that the effort to have massage therapy recognized as a medical service will be enhanced by having that degree of continuing education. However, the Medical Board understands that the justification for twenty-four hours included in the original BIA does not overcome the adverse impact on the small businesses through which most massage therapists provide services.
- The objection to the inclusion of the FSMTB as an approver and/or provider of continuing education was voiced as being that because FSMTB has not yet produced continuing education courses or approved courses there has been no review of the quality of the courses. However, the FSMTB is an organization for state massage therapy licensing agencies. It's work is performed and/or overseen by regulators of massage therapy providers. The Medical Board firmly believes that the courses approved and/or presented by the FSMTB will be appropriately vetted to ensure acceptable quality.

4731-1-24

Massage therapy renewal and continuing education.

(A) For purposes of this rule:

- (1) "CMTE" means continuing massage therapy education approved by the board pursuant to this rule.
- (2) "Course" means a course, seminar, speaker session, on-line course, or webinar, or a home study course that requires passage of an examination in order to receive the award of the certification of completion.
- (3) "Distance learning" means a course using synchronous instructional methods where the instructor is in a distant location from the student, but during which there is direct communication between the instructor and participants.
- (4) "Home study coursework" means a course where the subject matter is delivered by a means that does not provide direct, contemporaneous communication between the instructor and the student.

(B) A massage therapy license expires according to the chart below:

<u>First Initial of Last Name</u>	<u>License Expiration Date</u>
<u>A - B</u>	<u>July of odd numbered years</u>
<u>C - D</u>	<u>April of odd numbered years</u>
<u>E - G</u>	<u>January of odd numbered years</u>
<u>H - K</u>	<u>October of even numbered years</u>
<u>L - M</u>	<u>July of even numbered years</u>
<u>N - R</u>	<u>April of even numbered years</u>
<u>S</u>	<u>January of even numbered years</u>
<u>T - Z</u>	<u>October of odd numbered years</u>

(C) Beginning two years after the effective date of this rule, an applicant seeking renewal or reinstatement of a massage therapy license shall have completed at least twenty four hours of CMTE during the current biennial licensure period.

- (1) The applicant for renewal or reinstatement shall certify on the application having completed at least twelve hours of CMTE during the biennial licensure period.
- (2) The requirement to complete continuing education shall not be applicable to the

first renewal of the license.

(D) Courses and providers

(1) Licensees shall complete at least twelve hours of CMTE as follows during each biennial licensure period:

(a) At least ten hours in courses that in the board's discretion are relevant to the practice of massage therapy.

(i) To be relevant to the practice of massage therapy, a course shall contribute to the advancement, extension, and enhancement of the professional skills and knowledge of the licensee in the practice of massage, which shall include, but not be limited to, critical reasoning, interpersonal abilities, or performance skills;

(ii) Although not required, self-care courses or business courses with direct application to the practice of massage therapy may be taken but shall be accepted for no more than two hours of the required hours;

(b) At least one hour in professional ethics and Ohio law related to the practice of massage therapy;

(c) A course on human trafficking awareness approved by the board, completion of which shall result in one hour of CMTE credit.

(2) A course in any of the following subject matters is not acceptable for meeting the continuing education requirement:

(a) A course in a subject area outside of the massage therapy scope of practice.

(b) A course in cardio-pulmonary resuscitation ("CPR").

(3) A CMTE course that is relevant to the practice of massage therapy shall be deemed approved as meeting the continuing education course requirements whether it is provided via an in-person, distance learning, or home study course when it complies with one of the following:

(a) The course is provided by an entity or person approved as a continuing education provider by the "National Certification Board for Therapeutic Massage and Bodywork ("NCBTMB"). The listing of approved providers can be found on the NCBTMB website at the following link: <http://www.ncbtmb.org/>;

(b) The course is provided by a state or national professional massage therapy

association comprised of more than fifty persons licensed to practice massage therapy;

(c) The course is provided by a massage therapy school approved by the board pursuant to this chapter of the Administrative Code;

(d) The course is provided by a health department or hospital which offers programs which have been previously approved for continuing medical education credits, continuing nursing education credits, or continuing physical therapist education credits when the program is relevant to massage therapy practice;

(e) The course is approved for continuing nursing education credits by the Ohio board of nursing or continuing physical therapist education credit by the Ohio occupational therapy, physical therapy, and athletic trainers board when the course is relevant to massage therapy practice; or

(f) The course is part of a curriculum of a university, college, or other educational institution when the course is relevant to massage therapy practice. Such a course shall be allotted continuing education credit at the rate of fifteen continuing education hours for each semester hour or ten continuing education hours for each quarter hour of school credit awarded.

(g) The course is provided by an entity or person approved as a provider by, or the course is presented by, the Federation of State Massage Therapy Boards.

(4) A CMTE course used to satisfy the continuing education requirements of a massage therapy licensing agency in another jurisdiction may be applied to fulfill the continuing education requirements under this rule if the course is relevant to massage therapy practice.

(5) Home study coursework which meets the requirements of this rule and is offered by a provider recognized in paragraph (D)(3) of this rule shall be accepted for no more than three hours of the required continuing education only when the course requires the passage of an examination over the subject matter before written notification of credit is granted by the provider.

(6) Request for approval of a CMTE course:

(a) A massage therapist seeking approval of a CMTE course, seminar, or speaker session that is not deemed approved pursuant to paragraph (D)(3) of this rule may request that the board approve the course by submitting in writing, at least three months in advance of the course registration date, the following information:

- (i) Title, location, and date of the course;
 - (ii) The name of the sponsor or provider of the course;
 - (iii) Course objectives and content;
 - (iv) Course hours;
 - (v) Name of each instructor; and
 - (vi) Educational background and experience of each instructor.
 - (b) The board shall notify the massage therapist of the decision as to whether the board approved the course in sufficient time for the massage therapist to register prior to the deadline.
 - (c) The massage therapist shall seek re-approval of the course from the board if there is a change in subject matter, length of the course, or instructor for the course.
 - (d) The board reserves the right to deny recognition of the credits earned if the course has not received prior approval by the board.
 - (e) The board shall not grant approval of a home study course under this paragraph.
- (E) An expired license to practice as a massage therapist shall be renewed upon payment of the biennial renewal fee provided in section 4731.15 of the revised code and without a late fee or re-examination if the holder meets all of the following requirements:
- (1) The licensee is not otherwise disqualified from renewal because of mental or physical disability;
 - (2) The licensee meets the requirements for renewal under section 4731.15 of the Revised Code;
 - (3) Either of the following situations applies:
 - (a) The license was not renewed because of the licensee's service in the armed forces, or
 - (b) The license was not renewed because the licensee's spouse served in the armed forces, and the service resulted in the licensee's absence from this state.

(4) The licensee or the licensee's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or national guard duty within six months after the discharge or release.

(F) Extension of the continuing education period based on active duty service:

(1) The holder of a massage therapy license may apply for an extension of the current continuing education reporting period in the manner provided in section 5903.12 of the Revised Code by submitting both of the following:

(a) A statement that the licensee has served on active duty, whether inside or outside of the United States, for a period in excess of thirty-one days during the current continuing education reporting period; and

(b) Proper documentation certifying the active duty service and the length of that active duty service.

(2) Upon receiving the application and proper documentation, the board shall extend the current continuing education reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current continuing education reporting period. Any portion of a month served shall be considered one full month.

(3) The board shall consider relevant education, training, or service completed by a licensee as a member of the armed forces in determining whether a licensee has met the continuing education requirements needed to renew the license.

(G) For purposes of this rule "armed forces" means any of the following:

(1) The armed forces of the United States, including the army, navy, air force, marine corps, and coast guard;

(2) A reserve component of the armed forces listed in paragraph (G)(1) of this rule;

(3) The national guard, including the Ohio national guard or the national guard of any other state;

(4) The commissioned corps of the United States public health service;

(5) The merchant marine service during wartime;

(6) Such other service as may be designated by Congress; or

(7) The Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

(H) The board may grant a waiver of a portion of required CMTE if the licensee's illness or absence from the United States lasted a minimum of six consecutive months during a single biennial licensing period.

(1) The licensee shall have the burden of establishing that the illness or absence affected the reasonable opportunity to participate in CMTE activities.

(2) The licensee shall submit an application for waiver to the board at least sixty days prior to the end of the biennial licensure period.

(3) The licensee who applies for a CMTE waiver shall not submit the licensure renewal application prior to receiving approval of a waiver from the board.

(4) When granting a waiver the board shall waive no more than five hours of CMTE for any biennial licensure period.