

Dear Senators MARTIN, Souza, Jordan, and
Representatives WOOD, Wagoner, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Bureau of Occupational Licenses - State Board of Massage Therapy:

IDAPA 24.27.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking
(Docket No. 24-2701-1900F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/24/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/21/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Legislative Drafting Attorney - Matt Drake
DATE: July 05, 2019
SUBJECT: Bureau of Occupational Licenses - State Board of Massage Therapy

IDAPA 24.27.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 24-2701-1900F)

The Idaho Bureau of Occupational Licenses - State Board of Massage Therapy - submits notice of temporary and proposed rules at IDAPA 24.27.01, Rules of the State Board of Massage Therapy. The rulemaking adopts and re-publishes existing and previously approved chapters with minor edits in the nature of clean-up and simplification. **No substantive changes are noted.** This is a fee rule. **No new fees or charges are imposed by this rule reauthorization and republication.** These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation.

cc: Bureau of Occupational Licenses - State Board of Massage Therapy
Kelley Packer

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.27.01 – RULES OF THE IDAHO STATE BOARD OF MASSAGE THERAPY

DOCKET NO. 24-2701-1900F

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4007, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.27.01, rules of the Idaho State Board of Massage Therapy:

IDAPA 24

- 24.27.01, *Rules of the Idaho State Board of Massage Therapy* - All rules *except Subsections 010.02, 010.03, 300.02, and 300.03.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules protect the health, safety, and welfare of the public through ensuring massage therapy services are provided by those have met minimum qualifications to perform massage therapy. Allowing these rules to expire would harm current licensees, applicants, and the public because the minimum standards of competency would lapse.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Without the ability to impose licensure fees prescribed in this chapter, the Idaho State Board of Massage Therapy would not be able to remain self-sufficient, in violation of its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-4008, Idaho Code, as follows: application fee: \$50; original license fee: \$65; annual renewal fee: \$65; license by endorsement fee: \$75; temporary license fee: \$25; provisional permit fee: \$25; and duplicate license fee: \$10.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**IDAPA 24
TITLE 27
CHAPTER 01**

24.27.01 – RULES OF THE IDAHO STATE BOARD OF MASSAGE THERAPY

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Idaho State Board of Massage Therapy by the provisions of Section 54-4007, Idaho Code. (3-27-13)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 24.27.01, “Rules of the Idaho State Board of Massage Therapy.” (3-27-13)

02. Scope. These rules implement the purposes and intent of Title 54, Chapter 40, Idaho Code, to regulate the profession of massage therapy in the interest of the public health, safety, and welfare. (3-27-13)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Board may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (3-27-13)

003. ADMINISTRATIVE APPEAL.

Administrative appeals are governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-27-13)

004. INCORPORATION BY REFERENCE.

These rules do not incorporate by reference a document other than those sections of the Idaho Code so referenced.

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The office of the Board is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. The mailing address of the Board is PO Box 83720, Boise, ID 83720-0063. The Bureau is open between the hours of 8:00 a.m. and 5:00 p.m. (Mountain Time) each day except Saturdays, Sundays and holidays. The Board’s phone number: (208) 334-3233; fax number: (208) 334-3945. The Board’s e-mail address is mas@ibol.idaho.gov and the official website is <http://www.ibol.idaho.gov>. (3-27-13)

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein are subject to and in compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. The records associated with the Board are subject to the provisions of the Public Records Act. (3-27-13)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Approved Massage Program. A massage therapy program conducted by an entity that is registered with the Idaho State Board of Education pursuant to Chapter 24, Title 33, Idaho Code, or with a comparable authority in another state, and that meets the entry-level educational requirements as set forth in Section 600 of these rules. (3-27-13)

02. Clinical Work. Supervised, hands-on training in a classroom setting. (3-27-13)

03. Code of Ethics. The Idaho Code of Ethics for Massage Therapy attached to these rules as Appendix A. (3-27-13)

04. CPR. Cardiopulmonary resuscitation. (3-27-13)

05. Standards of Practice. The Standards of Practice of Massage Therapy attached to these rules as Appendix B. (3-27-13)

011. UPDATE OF RECORDS.

The licensure applicant or licensee is responsible for keeping his or her records updated with the Bureau. All changes including, but not limited to, changes in the manner in which the applicant or licensee is represented to the public, such as name changes and change of address, must be reported to the Bureau within thirty (30) days. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including, but not limited to, notification of renewal and notices related to complaints or disciplinary actions. (3-27-13)

012. -- 099. (RESERVED)

100. ORGANIZATION AND OPERATIONS OF THE BOARD.

01. Meetings. The Board meets at least annually and at other such times and places as designated by the Chairman or upon the written request of any three (3) members of the Board. (3-27-13)

a. A minimum of three (3) Board members constitutes a quorum and shall be required for the transaction of business. A majority vote of the quorum present at a meeting is considered the action of the Board as a whole. (3-27-13)

b. The Chairman is a voting member. (3-27-13)

02. Organization. At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (3-27-13)

a. The Chairman, when present, presides at all meetings, appoints with the consent of the Board all committees, and shall perform all duties pertaining to the office of Chairman. (3-27-13)

b. The Bureau acts as an agent of the Board and is the official keeper of all records of the Board. The Bureau provides such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. (3-27-13)

101. -- 199. (RESERVED)

200. APPLICATION.

01. Filing an Application. Applicants for licensure must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (3-27-13)

02. Supplemental Documents. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required under the qualifications for the license being sought. (3-27-13)

03. Applications Must Be Complete. Applications are considered complete until all required information, documents, and fees are received by the Board. (3-27-13)

04. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-27-13)

201. -- 249. (RESERVED)

250. FEES.

Fees are established in accordance with Section 54-4008, Idaho Code, as follows: (3-27-13)

- 01. Application Fee.** Application fee is fifty dollars (\$50). (3-27-13)
- 02. Original License Fee.** Original license fee is sixty-five dollars (\$65). (3-24-17)
- 03. Annual Renewal Fee.** Annual renewal fee is sixty-five dollars (\$65). (3-24-17)
- 04. License by Endorsement Fee.** License by endorsement fee is seventy-five dollars (\$75). (3-27-13)
- 05. Temporary License.** Temporary license fee is twenty-five dollars (\$25). (3-24-17)
- 06. Provisional Permit.** Provisional permit fee is twenty-five dollars (\$25). (3-24-17)
- 07. Duplicate License Fee.** Duplicate license fee is ten dollars (\$10). (3-27-13)
- 08. Reinstatement Fee.** Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)
- 09. Examination Fee.** The fee for those examinations administered by a third party administrator is that fee determined by the administrator, and is paid directly to the administrator by the applicant. (3-27-13)
- 10. Refund of Fees.** All fees are non-refundable except that, if a license is not issued, the license fee will be refunded. (3-27-13)

251. -- 299. (RESERVED)

300. REQUIREMENTS FOR ORIGINAL LICENSURE.

The Board may grant a license to an applicant for licensure who completes an application as set forth in Section 200 of these rules and meets the following general, education, and examination requirements: (3-27-13)

- 01. General.** (3-27-13)
 - a.** An applicant must provide evidence of being at least eighteen (18) years of age. (3-27-13)
 - b.** An applicant must certify that he/she has not been found guilty, convicted, received a withheld judgment, or suspended sentence for a felony or a crime involving moral turpitude, or if the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)
 - c.** An applicant must certify that he/she has not been convicted of a crime under any municipal, state, or federal narcotic or controlled substance law, or if the applicant has been convicted of such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)
 - d.** An applicant must certify that their license has not been subject to any disciplinary action by a regulatory entity in another state, territory or country including, but not limited to, having an application for licensure denied. If the applicant or their license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

301. -- 304. (RESERVED)

305. APPROVED EXAMINATIONS.

Approved examinations are the following examinations or another nationally recognized competency examination in massage therapy that is approved by the Board. (3-27-13)

- 01. Approved Examinations.** (3-27-13)
 - a.** Massage and Bodywork Licensing Examination (MBLEx) as administered by the Federation of State Massage Therapy Boards (FSMTB); (3-27-13)

b. National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) or National Certification Examination for Therapeutic Massage (NCETM) as administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), if taken before February 1, 2015. (3-24-17)

c. Other nationally recognized competency examinations in massage therapy that are approved by the Board. A written request for approval must be submitted to the Board together with supporting documentation as may be requested by the Board. (3-27-13)

02. Successful Passage. A passing score, or successful passage of the exam, will be determined by the entity administering the exam. (3-27-13)

03. Date of Exam. The passage of the exam may have occurred prior to the effective date of these rules. (3-27-13)

306. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.

An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony or crime involving moral turpitude, has a conviction for any crime under any municipal, state, or federal narcotic or controlled substance law, or has been subject to discipline in another state, territory or country must submit with his application a written statement and any supplemental information establishing his current suitability for licensure. (3-27-13)

01. Consideration of Factors and Evidence. The Board considers the following factors or evidence: (3-27-13)

a. The severity or nature of the crime or discipline; (3-27-13)

b. The period of time that has passed since the crime or discipline under review; (3-27-13)

c. The number or pattern of crimes or discipline or other similar incidents; (3-27-13)

d. The circumstances surrounding the crime or discipline that would help determine the risk of repetition; (3-27-13)

e. The relationship of the crime or discipline to the practice of massage therapy; (3-27-13)

f. The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of current rehabilitation; and (3-27-13)

g. Any other information regarding rehabilitation or mitigating circumstances. (3-27-13)

02. Interview. The Board may, at its discretion, grant an interview of the applicant. (3-27-13)

03. Applicant Bears the Burden. The applicant bears the burden of establishing his current suitability for licensure. (3-27-13)

307. -- 309. (RESERVED)

310. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.

The Board may grant a license to an applicant for licensure by endorsement who completes an application as set forth in Section 200 and meets the following requirements: (3-27-13)

01. Holds a Current License. The applicant must be the holder of a current active license or certificate in good standing in the profession, and at the level for which a license is being sought, issued by the authorized regulatory entity in another state. The state must have licensing or certification requirements substantially equivalent to or higher than those required for new applicants in Idaho. The certification of licensure or certification must be

received by the Board from the issuing agency; (3-27-13)

02. Has Not Been Disciplined. The applicant or his/her license must have not been voluntarily surrendered, revoked, or suspended by any regulatory entity. The Board may consider an applicant who, or whose license, has been restricted, denied, sanctioned, or otherwise disciplined. If the applicant or his/her license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules; (3-27-13)

03. Is of Good Moral Character. The applicant must not have been found guilty, convicted, received a withheld judgment, or suspended sentence for any felony or any crime involving moral turpitude. If the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules; and (3-27-13)

04. Has Not Been Convicted of a Drug Offense. The applicant must not have been convicted of any crime under any municipal, state, or federal narcotic or controlled substance law. If the applicant has been convicted of such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

311. -- 319. (RESERVED)

320. TEMPORARY LICENSE.

01. General. Any person who has submitted to the Board a complete application for licensure by examination under Section 54-4009, Idaho Code, or by endorsement under Section 54-4010, Idaho Code, together with the required fees, may apply for a temporary license to practice massage therapy while their application is being processed by the Board. (3-24-17)

02. Duration. An applicant will be issued only one (1) temporary license that will be valid for a period not to exceed four (4) months or until the Board acts upon the licensure application, whichever occurs first. (3-24-17)

321. -- 329. (RESERVED)

330. PROVISIONAL PERMIT.

Upon application to the Board and payment of the required fees, an applicant may be issued a provisional permit to practice massage therapy if the applicant meets all the requirements for licensure under section 54-4009, Idaho Code, except for having successfully passed a nationally recognized competency examination in massage therapy that is approved by the Board as described in Subsection 305.01. (3-24-17)

01. General. A provisional permit will be issued subject to the following conditions: (3-24-17)

a. The applicant must certify that the applicant will take the next scheduled examination for licensure approved by the Board, and that the applicant has not failed two (2) previous examinations for licensure; and (3-24-17)

b. A licensed massage therapist certifies to the Board that the applicant will practice massage therapy only under the supervision of the licensed massage therapist while both are in the same location. (3-24-17)

02. Duration and Renewal. An applicant will be issued only one (1) provisional permit that is valid for a period not to exceed six (6) months or until the applicant is issued a temporary license or the Board acts upon the massage therapist license application, whichever occurs first. A provisional permit may only be renewed once upon a showing of good cause. (3-24-17)

331. -- 399. (RESERVED)

400. RENEWAL OR EXPIRATION OF LICENSE.

A license expires on the license holder's birth date. The individual must annually renew the license before the license

holder's birth date. Licenses not so renewed will be immediately canceled in accordance with Section 67-2614, Idaho Code. (3-27-13)

01. Renewal. A license must be renewed before it expires by submitting a complete application for renewal on forms approved by the Board together with the renewal fee. As part of a complete renewal application, the licensee will attest to completion of the required continuing education pursuant to Section 500 of these rules. False attestation of satisfaction of the continuing education requirements on a renewal application subjects the licensee to disciplinary action, including revocation. (3-27-13)

02. Reinstatement. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (3-27-13)

a. Within five (5) years of cancellation, an applicant seeking reinstatement must submit to the Board evidence that the applicant has completed the required continuing education together with a complete renewal application and appropriate fee(s). (3-27-13)

i. The applicant must submit evidence of completion of continuing education hours totaling the hours required at the time of cancellation and for each year the license was canceled. (3-27-13)

ii. The applicant must pay a reinstatement fee as set forth in Section 250 of these rules. (3-24-16)

b. After five (5) years of cancellation, the applicant will be treated as a new applicant, and application must be made on the same forms and in the same manner as an application for an original license in accordance with Section 200 of these rules. (3-27-13)

401. -- 499. (RESERVED)

500. CONTINUING EDUCATION.

All licensees must comply with the following continuing education requirements: (3-27-13)

01. Requirement. Beginning with the second renewal of their license, a licensee is required to complete a minimum of six (6) hours of continuing education, which includes one (1.0) hour in ethics, within the preceding twelve (12) months that meet the requirements in Sections 501, 502 and 503 of these rules. (3-27-13)

a. An hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (3-27-13)

b. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. (3-27-13)

c. The educational course setting may include a classroom, conference, seminar, on-line or a virtual classroom. (3-27-13)

d. If the licensee completes two (2) or more courses having substantially the same content during any one (1) renewal period, the licensee will only receive continuing education credit for one (1) of the courses. (3-27-13)

02. Documentation. Each licensee must maintain documentation verifying continuing education course attendance and curriculum, or completion of the educational activity for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. (3-27-13)

a. Documented evidence of meeting the continuing education course requirement must be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. Documented evidence of completing a continuing education activity must be in such form as to document both completion and date of the activity. (3-27-13)

b. A licensee must submit the verification documentation to the Board, if requested by the Board. In

the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. (3-27-13)

03. Waiver. The Board may waive the requirements of this rule for reasons of individual hardship, including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. (3-27-13)

04. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of six (6) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. (3-27-13)

05. Exemption. A licensee is exempt from the continuing education requirements under this Section for the period between the initial issuance of the original license and the first expiration date of that license. (3-27-13)

501. APPROVAL OF CONTINUING EDUCATION COURSES.

Approved continuing education courses are those courses and programs that meet the requirements of these rules, and are approved, sponsored, or provided by the following entities or organizations, or otherwise approved by the Board: (3-27-13)

01. A College or University. Accredited by a nationally recognized accrediting agency as recognized by the United States Secretary of Education; (3-27-13)

02. Federal, State or Local Governmental Entities; and (3-27-13)

03. National and State Massage Therapy Associations. (3-27-13)

04. Provider Course Approval. Other courses may be approved by the Board based upon documentation submitted by a continuing education provider. Requests for approval of courses made by the provider must be submitted on a form approved by the Board that includes: (3-27-13)

a. The nature and subject of the course and its relevancy to the practice of massage therapy; (3-27-13)

b. The name of instructor(s) and their qualifications; (3-27-13)

c. The date, time and location of the course; (3-27-13)

d. The specific agenda for the course; (3-27-13)

e. The number of continuing education hours requested; (3-27-13)

f. The procedures for verification of attendance; and (3-27-13)

g. Other information as may be requested by the Board. (3-27-13)

h. Upon review of all information requested, the Board may deny any request for a course that does not meet the requirements of Idaho law or rule. Board approval of a course will be granted for a period not to exceed five (5) years, or until the course materials or instructors are changed, whichever may occur first. (3-27-13)

05. Licensee Course Approval. Other courses may be approved by the Board based upon documentation submitted by the licensee. All requests for approval must be made to the Board in writing and include the nature and subject of the course and its relevancy to the practice of massage therapy, name of instructor(s) and their qualifications, date, time and location of the course, and procedures for verification of attendance. (3-27-13)

502. CONTINUING EDUCATION ACTIVITIES.

The following educational activities qualify for continuing education as set forth: (3-27-13)

01. Teaching a Course For The First Time, Not to Exceed Six Hours. A report must be submitted, including the name of the course, course outline, qualifications for teaching, number of hours taught, number of participants taught, date and location of the training. (3-27-13)

02. Publishing Articles or Books. The hours awarded as determined at the discretion of the Board. (3-27-13)

03. Self Study. Using books, audio tapes, video tapes, DVD's, research materials, professional publications, online sources, and/or other electronic sources/methods documented by a type-written two-page report summarizing the study content. (3-27-13)

503. CONTENT OF CONTINUING EDUCATION.

The content of continuing education activities and course content must be germane to the practice of massage therapy as defined in Section 54-4002, Idaho Code, and courses in ethics must also be specific to legal issues, law, standards of practice, or ethics. (3-27-13)

01. Continuing Education. Content germane to the practice of massage therapy includes, but is not limited to: (3-27-13)

a. Applications of massage and bodywork therapy for specific needs, conditions, or client populations. (3-27-13)

b. Client assessment protocols, skills for client record keeping, strategies for interfacing with other health care providers. (3-27-13)

c. Use of external agents such as water, sound, heat, cold, or topical applications of plant or mineral-based substances. (4-11-15)

d. Body-centered or somatic psychology, psychophysiology, or interpersonal skills which may include communication skills, boundary functions, dual relationships, transference, counter-transference, and projection. (3-27-13)

e. Standards of practice, professional ethics, or state laws. (3-27-13)

f. Strategies for the marketing of massage and bodywork therapy practices. (3-27-13)

g. Theory or practice of ergonomics as applied to therapists or clients. (3-27-13)

h. Hygiene, methods of infectious disease control, organization and management of the treatment environment. (3-27-13)

i. Body sciences, which may include anatomy, physiology, kinesiology or pathology, as they apply to massage therapy. (3-27-13)

j. Certified CPR or first aid training. (3-27-13)

504. -- 599. (RESERVED)

600. EDUCATIONAL PROGRAM STANDARDS.

Approved educational programs are those programs conducted by an entity that meet the definition in Section 010 and that consist of a minimum of five hundred (500) hours of in-class supervised hours of coursework and clinical work that meets the following entry-level educational standards: (3-27-13)

01. Coursework Content and Hours. Coursework must include the following content areas and minimum hours: (3-27-13)

- a. Two hundred (200) hours in massage and bodywork assessment, theory, and application; (3-27-13)
- b. One hundred twenty-five (125) hours in body systems including anatomy, physiology, and kinesiology; (3-27-13)
- c. Forty (40) hours in pathology; (3-27-13)
- d. Twenty-five (25) hours in business and ethics; and (3-27-13)
- 02. Clinical Work.** A minimum of one hundred ten (110) hours must be clinical work. (3-27-13)
 - a. Students are permitted to render any clinical services to clients until students have completed at least twenty percent (20%) of the required hours of instruction. (3-27-13)
 - b. All clinical services must be performed under the supervision of a person fully licensed. (3-27-13)

601. SUPERVISION.

01. Supervision of Clinical Work. The supervising massage therapist must consult with the student, evaluate student performance and be physically present and available to render direction in person and on the premises where massage therapy is being provided. (4-11-15)

02. Supervision of Fieldwork. The supervising massage therapist must be available to render direction either in person or by means of telecommunications but is not required to be physically present on the premises where massage therapy is being provided. (4-11-15)

602. -- 699. (RESERVED)

700. SCOPE OF PRACTICE.

All licensees must practice in a competent manner consistent with their level of education, training, and experience. (3-27-13)

701. -- 749. (RESERVED)

750. STANDARDS OF PRACTICE.

All licensees must comply with the Idaho Standards of Practice for Massage Therapy as approved by the Board and attached as Appendix B. (3-27-13)

751. -- 799. (RESERVED)

800. CODE OF ETHICS.

All licensees must comply with the Code of Ethics for Massage Therapy as approved by the Board and attached to these rules as Appendix A. (3-27-13)

801. -- 899. (RESERVED)

900. DISCIPLINE.

If the Board determines that grounds for discipline exist for violations of Title 54, Chapter 40, Idaho Code, violations of these rules, or both, it may impose disciplinary sanctions against the licensee including, without limitation, any or all of the following: (3-27-13)

- 01. Refuse License.** Refuse to issue, renew, or reinstate a license; (3-27-13)
- 02. Revoke License.** Revoke or suspend the licensee's license(s); (3-27-13)
- 03. Restrict License.** Condition, restrict, or limit the licensee's practice, license, or both; (3-27-13)

04. Administrative Fine. Impose an administrative fine not to exceed one thousand dollars (\$1,000) for each violation of the Board's laws or rules; and (3-27-13)

05. Licensee Costs. Order a licensee to pay the costs and fees incurred by the Board in the investigation, prosecution, or both, of the licensee for violation(s) of the Board's laws, rules, or both. (3-27-13)

901. -- 999. (RESERVED)

IDAHO BOARD OF MASSAGE THERAPY CODE OF ETHICS -- APPENDIX A

Preamble: This Code of Ethics is a summary statement of the standards of conduct that define ethical practice of massage therapy. All licensees are responsible for maintaining and promoting ethical practice.

A licensee shall:

- 1.** Conduct all business and professional activities honestly and within their scope of practice and all applicable legal and regulatory requirements.
- 2.** Inform clients of the limitations of the licensee's practice, the limitations of massage therapy, and the contraindications for massage therapy.
- 3.** Refer the client to other professionals or services if the treatment or service is beyond the licensee's scope of practice.
- 4.** Not engage in any sexual conduct, sexual activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship. Sexual activity includes any verbal and/or nonverbal behavior for the purpose of soliciting, receiving, or giving sexual gratification.
- 5.** Be truthful in advertising and marketing, and not misrepresent services, charges for services, credentials, training, experience or results.
- 6.** Safeguard the confidentiality of all client information, unless disclosure is requested by the client in writing or as allowed or required by law.
- 7.** Obtain informed and voluntary consent from clients.
- 8.** Allow a client the right to refuse, modify or terminate treatment regardless of prior consent given.
- 9.** Provide draping and treatment in a way that ensures the safety, comfort, and privacy of the client.
- 10.** Possess the right to refuse to treat any person or part of the body.
- 11.** Refuse any gifts or benefits that are intended to influence a referral, decision, treatment or the professional relationship between the licensee and the client.
- 12.** Report to the Idaho Board of Massage Therapy any unlicensed practice of massage therapy, and any evidence indicating unethical, incompetent or illegal acts committed by a licensee or individual.
- 13.** Do no harm to the physical, mental, and emotional well being of clients.

IDAHO BOARD OF MASSAGE THERAPY STANDARDS OF PRACTICE -- APPENDIX B

Standard I: Professionalism

In his/her professional role the licensee shall:

1. Cooperate with any Board investigation regarding any alleged violation of the Massage Therapy law or rules.
2. Use professional verbal, nonverbal, and written communications.
3. Provide an environment that is safe for the client and which meets all legal requirements for health and safety.
4. Use standard precautions to ensure professional hygienic practices and maintain a level of personal hygiene appropriate for practitioners in the therapeutic setting.
5. Wear clothing that is clean and professional.
6. Obtain voluntary and informed consent from the client, or written informed consent from client's legal guardian, prior to initiating the treatment plan.
7. If applicable, conduct an accurate needs assessment, develop a plan of care with the client, and update the plan as needed.
8. Use appropriate draping to protect the client's physical and emotional privacy. When clients remain dressed for seated massage or sports massage, draping is not required.
9. Not practice under the influence of alcohol, drugs, or any illegal substances, with the exception of legal or prescribed dosage of medication which does not impair the licensee.

Standard II: Legal and Ethical Requirements

In his/her professional role the licensee shall:

1. Maintain accurate and complete client billing and records. Client Records includes notes written by a licensee and kept in a separate client file that indicates the date of the session, areas of complaint as stated by client, and observations made and actions taken by the licensee.
2. Report within thirty (30) days to the Idaho Board of Massage Therapy any felony or misdemeanor criminal convictions of the licensee.

Standard III: Confidentiality

In his/her professional role the licensee shall:

1. Protect the confidentiality of the client's identity in conversations, all advertisements, and any and all other matters unless disclosure of identifiable information is requested or permitted by the client in writing or is required or allowed by law.
2. Protect the interests of clients who are minors or clients who are unable to give voluntary and informed consent by securing written informed consent from an appropriate third party or guardian.
3. Solicit only information that is relevant or reasonable to the professional relationship.
4. Maintain the client files for a minimum period of seven (7) years.
5. Store and dispose of client files in a secure manner.

Standard IV: Business Practices

In his/her professional role the licensee shall:

1. Not use sensational, sexual, or provocative language and/or pictures to advertise or promote their business.
2. Display/discuss a schedule of fees in advance of the session that is clearly understood by the client or potential client.
3. Make financial arrangements in advance that are clearly understood by, and safeguard the best interests of, the client or consumer.

Standard V: Roles and Boundaries

In his/her professional role the licensee shall:

1. Not participate in client relationships that could impair professional judgment or result in exploitation of the client.

Standard VI: Prevention of Sexual Misconduct

In his/her professional role the licensee shall:

1. Not engage in any behavior that sexualizes, or appears to sexualize, the client/licensee relationship.
2. Not participate in a sexual relationship or sexual conduct with the client, whether consensual or otherwise, from the beginning of the client/licensee relationship and for a minimum of twelve (12) months after the termination of the client/licensee relationship.
3. In the event that the client initiates sexual behavior, clarify the purpose of the therapeutic session and, if such conduct does not cease, terminate or refuse the session.