

# ARKANSAS REGISTER

## Transmittal Sheet

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



Secretary of State

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Name of Agency Arkansas Department of Health

Department Cosmetology Section

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Statutory Authority for Promulgating Rules § 20-7-109 et seq.

Rule Title: Rules for Massage Therapy in Arkansas

### Intended Effective Date

(Check One)

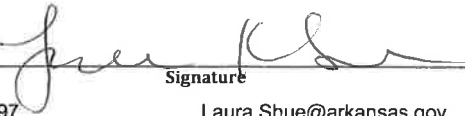
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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

<u>Laura Shue</u>	<u>Laura.Shue@arkansas.gov</u>	<u>11/25/20</u>
Contact Person	E-mail Address	Date

### CERTIFICATION OF AUTHORIZED OFFICER

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

	
Signature	
<u>501-661-2297</u>	<u>Laura.Shue@arkansas.gov</u>
Phone Number	E-mail Address
General Counsel	
Title	
<u>11/25/20</u>	
Date	

# **ARKANSAS STATE BOARD OF HEALTH**

## **RULES FOR MASSAGE THERAPY IN ARKANSAS**



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

Effective December 5, 2020

**Arkansas Department of Health**  
**José R. Romero, MD, FAAP, FIDSA, FPIDS, FAAAS**  
**Secretary and State Health Officer**

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## **Section 1**

### **Authority and Purpose**

**1. Authority** - The following Rules for Massage Therapy in Arkansas are duly adopted and promulgated by the Arkansas Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including, without limitation, the Massage Therapy Act, specifically Ark. Code Ann. § 17-86-203(a).

**2. Purpose** - These Rules are prepared for the purpose of establishing standards to regulate the vocation of massage therapy, to provide for the licensing of persons to carry on and to teach such vocation, to regulate the conduct and sanitation of massage therapy clinics, Massage Therapy schools, and Massage Therapy postsecondary schools so as to prevent the spreading of communicable diseases and, to provide penalties for violation thereof.

## **Section 2**

### **Principles, Methods and Definitions**

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

- 1. Assist** means acting as an aide to a master massage therapist or massage therapy instructor.
- 2. Board** means the Arkansas State Board of Health.
- 3. Continuing Education** means education that is acquired after an individual has graduated and become licensed as a massage therapist.
- 4. Cupping Therapy for massage** means a modality used to release rigid soft tissues, through the application of a non-heated device that creates suction to lift the tissue away from the body.
- 5. Department** means the Arkansas Department of Health.
- 6. Direct supervision** means being in the physical presence of a licensed master massage therapist or massage therapy instructor.
- 7. Guest Instructor** means a qualified speaker or presenter.

8. **“Licensee”** means an individual licensed under the Massage Therapy Act and these Rules.
9. (A) **“Massage therapist”** means a person who has:
- (i) Earned a diploma from a Board-accepted school of massage therapy;
  - (ii) Passed an examination required or accepted by the Board; and
  - (iii) Become licensed and registered to practice massage therapy.
- (B) “Massage therapist” includes a person who has previously obtained the massage therapist license under prior state law.
- (C) A massage therapist may:
- (i) Instruct continuing education programs approved by the Department of Health; and
  - (ii) Assist in the instruction of the procedures listed in the definition of Massage Therapy under the direct supervision of a massage therapy instructor or master massage therapist.
10. (A) **“Massage therapy”** means the treatment of soft tissues, which may include skin, fascia, and muscles and their dysfunctions for therapeutic purposes of establishing and maintaining good physical condition, comfort, and relief of pain.
- (B) “Massage therapy” is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, and stretching the tissue.
- (C) “Massage therapy” also means to engage in the practice of any of the following procedures:
- (i) Massage therapy techniques and procedures either hands-on or with mechanical devices;
  - (ii) Therapeutic application and use of oils, herbal or chemical preparations, lubricants, nonprescription creams, lotions, scrubs, powders, and other spa services;
  - (iii) Therapeutic application of hot or cold packs;
  - (iv) Hydrotherapy techniques, which means the use of water in any form for therapeutic purposes and includes methods of full and partial immersion baths, whirlpools, sponging, sprays, body shampoos, body scrubs, body wraps, fomentations, compresses, poultices, packs, masks, steam treatments, and sauna treatments.
  - (v) Heliotherapy, which may include mechanical devices, heat lamps, and other devices with the use of light for therapeutic purposes and may consist of the use of infrared radiation lamps and devices and the various uses of other light that might be approved by the Department.

(vi) Electrotherapy; which means the use of electrical devices for therapeutic purposes and may consist of the use of mechanical vibrators, electric stimulation, direct and alternating currents, interferential currents, micro currents, and Russian stimulation.

(vii) Any hands-on bodywork techniques and procedures rising to the level of the techniques and procedures intended to be regulated under the Massage Therapy Act and not covered under specific licensing laws of other boards;

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

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

11. **“Massage Therapy Act”** means Arkansas Code § 17-86-101 *et. seq.*

12. **“Massage therapy clinic”** means a clinic, place, premises, building, or part of a building in which a branch or any combination of branches of massage therapy or the occupation of a massage therapist is practiced;

13. (A) **“Massage therapy instructor”** means a person who:

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

(B) “Massage therapy instructor” includes a person who has previously obtained the massage therapy instructor license under prior state law.

(C) Massage therapy instructors may:

- (i) Instruct continuing education programs approved by the Department;
- (ii) Instruct any of the procedures in subdivision (5) of this section; and
- (iii) Instruct basic curricula in a massage therapy school registered by the department as required by § 17-86-306(e);

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

**15. “Massage Therapy Spa”** means a site or premises, or portion of a site or premises, in which a massage therapist practices massage;

**16. (A) “Master massage therapist”** means a person who:

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

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

(C) Master massage therapists may:

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

**17. “NCBTMB” means** National Certification Board of Therapeutic Massage and Bodywork.

**18. “Passing grade”** means a score of seventy (70%) percent or better.

**19. “Postsecondary massage therapy school”** means a massage therapy school that:

(A) Offers a postsecondary curriculum approved by the State Board of Health; and

(B) Has an enrollment in which no more than fifty percent (50%) of its students do not have a diploma or the recognized equivalent of a high school diploma.

**20. “Sexual misconduct” includes:**

(A) A range of behavior used to obtain sexual gratification against another's will, at the expense of another, without the client's knowledge, engaging in sexual activity for profit, or a combination of any of these activities;

(B) Massage of the genitalia, anus, and, except under specific circumstances, the breast; and

(C) Sexual activity with consent of a client or at the request of a client.

### **Section 3**

### **Policies & Procedures**

**1.** The Department designates all forms and letters as necessary.

**2.**

The Massage Therapy Technical Advisory Committee (MTTAC) may meet on a quarterly basis and at other times as deemed necessary by the Department and follows all requirements of the Freedom of Information Act and all other applicable State laws in conducting such meetings.

(A) The MTTAC shall consist of seven (7) members, who shall be appointed by the Board for a term of three (3) years. The composition of the MTTAC shall be as follows:

(i) Six (6) shall be licensees under the Massage Therapy Act;

(ii) Only one (1) shall be an owner of a massage therapy school; and

(iii) One (1) member, to represent the public, shall not be engaged in or retired from the practice of massage therapy.

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



- (i) Recommend rule changes to the Board;
- (ii) Recommend CEU approval to the Department;
- (iii) Hold initial hearings and determinations as described in Section 4.

3. Requests for items to be placed on the MTTAC's agenda must be submitted to the Department of Health's Massage Therapy Section in writing at least fourteen (14) days prior to the applicable MTTAC meeting.
4. A copy of the Massage Therapy Act and a copy of the latest adopted Rules shall be posted on the Department of Health's website and available for download.
5. An applicant applying as a new massage therapy licensee, an individual applying for a new massage therapy school license, or a licensee applying for an upgrade issued by the Department shall apply to the Identification Bureau of the Arkansas State Police for a state and federal criminal background check to be conducted by the Identification Bureau and the Federal Bureau of Investigation.

(A) The state and federal criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints;

(B) The applicant shall sign a release of information to the Department and shall be responsible for the payment of any fees associated with the state and federal criminal background check;

(C) Each applicant who has resided outside of Arkansas shall provide a state and federal criminal background check, including the taking of fingerprints, issued by the state or states in which the applicant resided.

(D) Results shall be sent directly to the Department from the agency performing the state and federal criminal background check.

6. The MTTAC may deny, suspend, place on probation, or revoke a license if a licensee or applicant has pleaded guilty or nolo contendere to or been found guilty of any felony listed under Ark. Code Ann. §17-3-102.

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

(A) Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.

(B) The individual must obtain the pre-licensure criminal background check petition form from the Department.

(C) The Department will respond with a decision in writing to a completed petition within a reasonable time.

(D) The Department's response will state the reasons for the decision.

(E) All decisions of the Department in response to the petition will be determined by the information provided by the individual.

(F) Any and all decisions made by the Department in response to a pre-licensure criminal background check petition are not subject to appeal.

(G) The Department will keep and maintain a copy of the petition and response, which will be reviewed during the formal application process.

#### **8. Waiver Request:**

(A) If an individual has been convicted of a felony listed in A.C.A. § 17-3-102, the Department may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:

- (i) An affected applicant for a license; or
- (ii) An individual holding a license subject to revocation.

(B) The Department may grant a waiver upon consideration of the following, without limitation:

- (i) The age at which the offense was committed;
- (ii) The circumstances surrounding the offense;
- (iii) The length of time since the offense was committed;
- (iv) Subsequent work history since the offense was committed;
- (v) Employment references since the offense was committed;
- (vi) Character references since the offense was committed;
- (vii) Relevance of the offense to the occupational license; and
- (viii) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health and safety of the public.

(C) A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees. A request for waiver, if made by a licensee, must be in writing.

(D) The Department will respond with a decision in writing and will state the reasons for the decision.

(E) Appeals under this section will be subject to the Administrative Procedures Act §25-15-201 *et seq.*

9. Applicants for licensure are considered who have completed and graduated with a minimum of five (500) in-classroom hours of massage therapy classes, or proof is given of completion of the specific classes and hours taken as required in Arkansas massage schools.
- i. Each course must be a passing grade of seventy-five (75) percent or higher.

## **Section 4** **Enforcement**

### **1. Consumer Information:**

**(A)** A copy of the most recent inspection sheet shall be posted in a conspicuous area.

**(B)** All Massage Therapy schools, Massage Therapy postsecondary schools, Massage therapist licenses, Master massage therapist license and Massage instructor licenses and spa and clinic registration letter shall be conspicuously posted in a designated place in reception areas, outside individual work rooms, or in the clinic area.

**(C)** A copy of the online complaint website and phone number for the Arkansas Department of Health Cosmetology and Massage Therapy Section shall be posted in a designated place in reception area, outside individual work rooms, or in the clinic area.

### **2. Inspections:**

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

### **3. Complaints:**

**A** Any person may file a complaint against any of the following: a person who practices massage therapy, massage therapy clinic/spa, massage therapy school

or postsecondary massage therapy school on any of the grounds for disciplinary action provided in § 17-86-311(a) of the Massage Therapy Act.

**B** Official complaints must be made in writing within ninety (90) days from the date of infraction.

**C** Complaints will be investigated by the Department and its staff. **(D).** The Department has the authority to investigate all such written complaints, investigate and refer to the MTTAC any information that comes to their attention constituting reasonable belief that a violation of law or rule has occurred.

#### **(4) Hearings**

**(A)** If findings are made against a licensee, clinic/spa, or massage therapy school or postsecondary massage therapy school, a hearing shall be held by the MTTAC.

((i)) The MTTAC will hold any necessary hearings at the regular quarterly meetings.

((ii)) Appeals of MTTAC findings may be heard by the State Board of Health.

**(B)** For the purpose of adjudicative hearings on complaints, the Department shall comply with the Arkansas Administrative Procedures Act, § 25-15-201 et. seq.

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

1. The Department may administer an examination of its own preparation as the State licensing examination for Arkansas massage therapists, to be administered at the time and place the Department so designates.
2. The Department will accept ,in lieu of the State licensing examination provided that the applicant passes a Department examination that verifies their knowledge of the Massage Therapy Act and of these rules that govern the practice of massage therapy in the State;
  - (A) Federation of State Massage Therapy Board Massage and Bodywork Licensing Exam (MBLEx)
  - (B) National Certification Examination for Therapeutic Massage (NCETM)
  - (C) National Certification Examination for Therapeutic Massage & Bodywork (NCETMB)
3. In the instance of multiple exams, the Department reserves the right to approve additional exams that are equivalent to those listed in Section 5, number 2.

4. The Department may, at its discretion, require a practical examination and may publish guidelines for the examination so that applicants might have insight into what would be expected to be demonstrated.
5. Every massage therapy license, active or inactive, is valid for a period of two (2) years and expires on the licensee's birthday.
  - a. The licensee must submit the following for renewal of his or her license: a completed license renewal application, payment of the appropriate fees and documented proof of no fewer than eighteen (18) hours of continuing education that have been approved in accordance with Article Six.
  - b. A renewal application must be postmarked on or before the first day of the month preceding the month in which the licensee's birthday falls in the biennial renewal year.

*Example: Joe's birthday is June 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 of twenty-five dollars (\$25.00) in addition to renewal fees.
  - d. A license is expired if application is postmarked after the birthday of the licensee in the biennial renewal year.
    - (1) Before the Department issues a new license to an applicant with an expired license, the applicant shall:
      - (a) Submit a new application that requires the applicant to meet current requirements; and
      - (b) Successfully complete an examination recognized by the Department of Health.
6. Renewal application forms will be mailed out the first of the month preceding the month they are due.
7. Any individual licensee who is currently not practicing and wishes to place his or her license on the inactive list shall:
  - a. Submit a renewal application for inactive status every two (2) years, even if remaining inactive.

- b. Surrender his or her current license to the Department of Health office.
  - c. Not practice massage therapy during the time licensee is on the inactive list.
  - d. Not remain on the inactive list for a period to exceed four (4) years without reexamination.
  - e. An individual who has been placed on the inactive list for fewer than four (4) years and wishes to reactivate licensure shall follow the procedures for license renewal, present satisfactory evidence of completion of continuing education hours for the inactive period and pay all appropriate fees before resuming active practice of massage therapy.
  - f. An individual who passes the four (4) year time allotment shall be considered to have an expired license and must meet the current requirements for licensure and successfully complete an examination recognized by the Department before resuming active practice of massage therapy.
8. Persons practicing with an expired license may be referred for prosecution or civil action for practicing without a license and penalties of Arkansas Code § 17-86-103 may be applied.

## **Section 6**

### **Reciprocity, Temporary Licensure and Military Licensure.**

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

##### **1. Reciprocity**

- (A) Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:
  - (i) The applicant shall hold a substantially similar license in another United States jurisdiction.
    - (a) A license from another state is substantially similar to an Arkansas Massage Therapy license if the other state's licensure qualifications require:
      - i. Completed and graduated with a minimum of five (500) in-classroom hours of massage therapy classes, or proof is given of completion of the specific classes and hours taken as required in Arkansas massage schools as required by Ark. Code Ann. § 17-86-306(e).

- (b) The applicant shall hold his or her occupational licensure in good standing;
- (c) The applicant shall not have had a license revoked for:
  - i. An act of bad faith; or
  - ii. A violation of law, rule, or ethics;
- (d) The applicant shall not hold a suspended or probationary license in a United States jurisdiction;

(B) The applicant shall be sufficiently competent in the Massage Therapy and

(C) Pass a licensing exam comparable to Section 5, A, B or C and pass the Arkansas Massage Therapy Law examination.

**2. Required documentation.** An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

(A) As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas, the applicant shall submit the following information:

- (i) Evidence of current and active licensure in that state. The Department may verify this information online if the jurisdiction that issue provides primary source verification on its website and;
- (ii) Evidence that the other state's licensure requirements match those listed in 1. (A) (i) (a) The Department may verify this information online if the jurisdiction that issue provides primary source verification on its website.

(B) To demonstrate that the applicant meets the requirements in 1. (A) (i) (b) through (d), the applicant shall provide the Department with:

- (i) The names of all states in which the applicant is currently licensed or has been previously licensed;
- (ii) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in 1. (A) (i) (c) and does not hold a license on suspended or probationary status as described in 1. (A) (i) (d) The Department may verify this information online if the jurisdiction that issue provides primary source verification on its website.

(C) As evidence that the applicant is sufficiently competent in the field of Massage Therapy, an applicant shall:

- (i) Pass a licensing exam comparable to Section 5, A, B or C and pass the Arkansas Massage Therapy Law examination.
- (ii) Submit three (3) letters of recommendation from former employers, former educators, or clients.

(D) Documents required to show compliance with least restrictive

Requirements:

- (i) A valid photo identification or driver's license, or both; and
- (ii) A social security card issued in the same name as the applicant or licensee.
- (iii) Present a high school diploma, Certificate of General Educational Development, or college transcript and credentials issued by a department-accepted massage therapy school or a like institution with no less than five hundred (500) in-classroom hours of instruction.
- (iv) An applicant shall have the massage therapy school submit the transcript directly to the department office.
  - (a) If the applicant's transcript is not obtainable from the original school, the applicant shall submit a statement to explain why it may not be obtained.
  - (b) Other documentation of credentials may be submitted and accepted for licensure at
- (v) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department;
- (E) (A) An out-of-state applicant holding a current massage therapy license issued by another state and after receiving an Arkansas massage therapy license may apply for an upgrade to master massage therapist or massage therapy instructor by providing appropriate continuing education credits and experience gained before Arkansas licensure for department approval.

(B) An upgrade request shall be made by submitting a complete application package and paying the fees required by this chapter.

## **2. Temporary License**

(A) The Department shall issue a temporary license immediately upon receipt of the application, the required fee, and the documentation required under 2. (A) (i) and (ii).

(B) The temporary license shall be effective for 90 days, unless the Department determines that the applicant does not meet the requirements in Reciprocity sections (A), (B), (C), and (D) in which case the temporary license shall be immediately revoked.

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

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

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

- (i) The applicant shall be sufficiently competent in Massage Therapy; and
- (ii) Pass a licensing exam comparable to Section 5, A, B or C and pass the Arkansas Massage Therapy Law examination.



- (iii) Submit three (3) letters of recommendation from former employers, former educators, or clients

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

- (i) As evidence that the applicant is sufficiently competent in the field of Massage Therapy an applicant shall:
  - (a) Pass a licensing exam comparable to Section 5, A, B or C and pass the Arkansas Massage Therapy Law examination.
  - (b) Submit three (3) letters of recommendation from former employers, former educators, or clients
- (ii) A valid photo identification or driver's license, or both; and
- (iii) A social security card issued in the same name as the applicant or licensee.
- (iv) Present a high school diploma, Certificate of General Educational Development, or college transcript and credentials issued by a department-accepted massage therapy school or a like institution with no less than five hundred (500) in-classroom hours of instruction.
- (v) An applicant shall have the massage therapy school submit the transcript directly to the department office.
  - (a) If the applicant's transcript is not obtainable from the original school, the applicant shall submit a statement to explain why it may not be obtained.
  - (b) Other documentation of credentials may be submitted and accepted for licensure at
- (vi) Furnish to the department satisfactory proof of passing an examination recognized and approved by the department;

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

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

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

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

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

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

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

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

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

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

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

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

1. All courses for continuing education must fall within the scope of practice of massage therapy. Courses, demonstrations and workshops offered within the State of Arkansas must be submitted to the Department for prior approval for continuing education credits unless approved by NCBTMB, AMTA, or ABMP.
- 2) For the purpose of renewing or upgrading a license, credits may be approved for courses that are:
  - a. Pre-approved by the Department; or
  - b. Officially transcribed courses from a U.S. Department of Education approved and accredited postsecondary institution completed with a passing grade in anatomy, physiology, kinesiology, biomechanics, pathology, medical terminology or other related courses within the scope of practice of massage therapy; or
  - c. Out of state continuing education courses that fall within the scope of practice of massage therapy that are approved by NCBTMB, AMTA, or ABMP.
  - d. Courses falling outside above guidelines may be submitted for consideration.

- 3) Home study and online courses may be approved by the Department providing all the following criteria are met:
  - a) The course is pre-approved by the Department, NCBTMB, AMTA, or ABMP. . The course must fall within the scope of practice of massage therapy.
  - b) The course content cannot be in a hands-on subject matter.
  - c)  
The course or courses cannot comprise more than six (6) of the total eighteen (18) continuing education hours needed for biannual renewal and cannot be repeated for renewal or upgrade purposes.
- 4) a) Each course requesting Department approval must present all required information on the forms prescribed by the Department with appropriate fees.
- b) Courses must be relevant to the field of massage therapy as defined in Section 2 of these rules;
- c) Courses must have the following:
  - i) Proposed title
  - ii) Schedule of course
  - iii) Learning outcomes
  - iv) Session description
  - v) Relevance of course
  - vi) Program content/time frame
  - vii) Teaching strategies
  - viii) Learning environment
- d) Courses must be instructed by a person who meets one of the following:
  - i. Has completed specialized related training.
    - A. For every one hour of CE to be taught the instructor must have 5 hours of specialized related training.
    - B.
    - C. The Department may give credit for extensive experience teaching the course, related courses, or years employed in the field.
  - ii. Has obtained instructor credentials specific to the practice.
  - iii. Has discovered and/or developed massage techniques and has a minimum of two (2) years practical experience related to the subject.
- e) Meet at least two (2) of the following criteria:
  - i. Holds a current Arkansas massage therapist license;
  - ii. Graduated from a massage therapy school or postsecondary massage therapy school approved by the Department or a school with a comparable curriculum;

- iii. Holds a minimum of a bachelor's degree with a major in a subject related to the content of the program offered;
  - iv. Presents to the Department evidence of a substantial amount of education, training, and knowledge sufficient, in the discretion of the Department, to qualify their expertise in the field.
- 5) Pre-approved continuing education providers must comply with the following rules:
  - a. retain an attendance record of participants with copies of course materials for at least three (3) years following the conclusion of the course.
  - b. furnish each participant with a certificate of attendance or transcript verifying the participant's successful program completion
    - 1. The certificate shall not be issued until completion of the course.
    - 2. The certificate must contain the participant's name, instructor's name and signature, title of the course, dates the course was given, Department approval number, and number of credit hours earned.
  - c. submit course revisions to the Department for approval:
    - 1. Course revisions are defined as changes to the following:
      - i) Proposed title
      - ii) Schedule of course
      - iii) Learning outcomes
      - iv) Relevance of course
      - v) Program content/time frame
      - vi) Teaching strategies
      - vii) Learning environment
    - 2. Course revisions affecting less than ten (10) percent of the currently approved content may be approved by the Department.
    - 3. Course revisions exceeding ten (10) percent of the currently approved content may be approved by the Massage Therapy Technical Advisory Committee.
  - d. One (1) hour of continuing education credit is defined as no less than fifty (50) minutes of uninterrupted in-classroom learning, practical demonstration, or practice of the technique in the presence of the instructor

- e. Presenters/moderators/instructors of courses may not receive credit for the courses they present
  - f. The Department retains the right to review programs given by the provider; and may rescind provider status or reject individual programs given by provider if the provider has:
    - 1. Disseminated any false or misleading information in connection with the continuing education program; or
    - 2. Failed to conform to and comply with the written agreement and rules of the Department;
    - 3. Failed to meet ethical standards; or
    - 4. Is not providing consistent quality educational benefits to participants.
  - g. A written notice to rescind approval for continuing education courses will be sent to the course approval applicant and any person(s) approved to instruct the course.
    - 1. Instructors may request hearing of a decision to rescind approval for continuing education course(s).
    - 2. The hearing shall be conducted according to Article Four of these rules and the Arkansas Administrative Procedures Act, § 25-15-201 et seq.
- 6) Officially transcribed courses from a U.S. Department of Education approved and accredited postsecondary institution completed with a passing grade may be accepted at the rate of three (3) college-credit hours to equal forty (40) clock-hours of education.
  - 7) For the purpose of upgrading a license, classes that repeat any of the applicant's specific entry-level five hundred (500) hour coursework will not be accepted.
  - 8) For the purpose of upgrading a license, duplicated continuing education courses do not apply toward required hours for the upgrade.
  - 9) The Department shall audit five to ten percent of randomly-selected, active license renewals, for compliance with continuing education requirements annually.
    - a. Licensees who receive an audit form shall submit all appropriate

documentation to substantiate compliance with the Department's continuing education requirements within thirty days of receipt.

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

## **Section 8**

### **Massage Clinics**

1. With the exception of treatments that are given at the location of a client, or treatments given at a temporary location lasting not more than 14 days such as a trade show, sporting event or community festival Massage therapist clinics, spas, or other facilities must: have a adequate workspace:

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

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

## **Section 9**

### **Massage Therapy Schools and Postsecondary Massage Therapy Schools**

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

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

- A. Any person, firm or corporation seeking to open a school of Massage Therapy shall submit an application with required forms to the Massage Therapy Section office and receive pre-approval from the Department.

The application shall include:

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

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

## **2. Facility and Sanitary Requirements**

1. School facilities must:
  - a. Be kept clean, sanitary and in good repair at all times.
  - b. Clean equipment and tools thoroughly on a routine basis and sanitize them with a disinfecting solution that is bactericidal, capable



of destroying bacteria; virucidal, capable of destroying viruses; and fungicidal, capable of destroying fungi. Disinfectants must be used according to manufacture labels to be safe and effective. Contact time listed on the manufacturers label must be adhered to at all times to effectively destroy pathogens. c. Have clinical workspace allowing for unrestricted movement around massage tables.

- d. Have adequately ventilated workspace to keep them free of excessive vapors, odors and fumes.
  - e. Be heated and air-conditioned with adjustable temperature control.
  - f. Have adequate space to accommodate all students during the theory and clinical instructional hours for which they are enrolled.
  - g. Have an instructional classroom that is clean, in good repair and well ventilated.
  - h. Have a minimum of one (1) massage table for every three (3) students in class.
  - i. Have an accessible hand-washing sink supplied with hot and cold running water, a soap dispenser and a sanitary hand drying method. Common towels are not allowed.
  - j. Have accessible restrooms that are clean and sanitary and in working order at all times. Restrooms shall not be used for storage of products used for servicing clients.
  - k. Have trash containers that are durable and easily cleanable that do not leak. Trash containers must be emptied daily to prevent an accumulation of garbage and the development of odors.
  - l. Dispose of all one time use towels, sheets and protective covering that cannot be disinfected immediately after use.
  - m. Have furniture, equipment and other fixtures that are made of washable material and kept clean and in good repair. Electrical equipment shall be kept clean and in good repair at all times.
  - n. Launder sheets and towels to disinfect after each use on client.
  - o. Have a separate receptacle for soiled linens.
  - p. Keep clean linens separate from public and/or covered in public use areas.
  - q. Keep oils, lotions or any products that are used on the public in containers that are labeled and sanitary.
  - r. Anyone who has an infectious, contagious, or communicable disease which may be spread by airborne, droplet, contact, or indirect methods and who is in contact with the public must not practice until all risk of disease transmission is cleared. Any employee or student with such a disease must be immediately relieved from duty until all risk of disease transmission is cleared.
2. Schools shall have an identifiable Massage Therapy Instructor who provides oversight and supervision under which other Master Massage Therapist or Massage Therapy Instructors can teach.

3. Schools must adhere to all state and local ordinance and provide a copy of the fire inspection, occupancy license, and/or business permits where required by law, and furnish copies to the Department upon request.
4. Schools must inform students regarding emergency evacuation procedures and clearly mark or post all routes and exits.

### **3. Curriculum**

1. Schools have the discretion to grant CLEP credit for any previously obtained, successfully passed, and officially documented classroom education relevant to massage therapy.
  - 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 Department inspection.
2. Schools must follow the curriculum outlined in Ark. Code Ann. § 17-86-306(e). The curriculum must be presented to and approved by the Department and will make further applications to the Department for any substantial modifications in the subjects, contents, or instructional methods offered to the students.
3. 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).
4. Schools that teach massage with students wearing swimsuits or underwear must instruct students at some time during their school on how to work on unclothed clients with a minimum of twenty (20) hours of classroom or student clinic massages on unclothed clients, unless there is a documented religious or medical objection made by the student.
5. Schools may not include more than five (5) percent of their total school curriculum of instruction with reiki, polarity, or other energy-based modalities.

### **4. Instruction Methods**

1. Each specified course of study must be outlined with a syllabus that includes written learning objectives. Instructors will follow daily lesson plans and will provide active, organized learning sessions.

2. 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.
3. All classes must be instructed and supervised by qualified and approved personnel and consist of no less than fifty (50) minutes of active teaching per credit hour. In-school independent study time is limited to no more than five (5) percent of the total hours of a program.
4. Active teaching means qualified school personnel offering organized lecture, activities, demonstration, and/or direct and immediate supervision of students during hands-on practice.
5. Written and practical evaluations shall be conducted with all grades recorded and available for inspection.

## **5. Instructor Qualifications**

1. All persons who instruct any portion of a curriculum within an approved massage therapy school must be a licensed master massage therapist or massage therapy instructor.
  - a. 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.
  - b. Each school must be able to supply the Department with a list of instructors who have taught or who will be teaching at that school along with documentation of their qualifications and the subjects they have instructed or will instruct.
2. 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.
  - d. Persons to instruct technical subjects must be qualified and hold a current license as a master massage therapist or massage therapy instructor, and must have a minimum of two (2) consecutive years of active experience in the practice of massage therapy.
  - e. 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.

- f. 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.
- 3. Schools may invite guest instructors to teach within their program without Department pre-approval if such guest instructor instructs on no more than sixteen (16) hours per school curriculum. (Section 9), 5.1 and 2 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. A Record of all hours of instruction provided in this manner must be maintained by the school and be made available for Department inspection upon request.
  - b. Schools must keep a log of guest instructors.

## **6. Student Clinical**

- 1. 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.
- 2. The status of the practitioner must be made clearly evident to the recipient of student massage.
- 3. Any student to be considered eligible for clinical practice must have completed the following requirements:
  - a. 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. provide proof of student liability insurance.
- 4. All clinical massages by a student must be documented and performed under the supervision of a qualified technical instructor who has access to the treatment area at all times.
- 5. No more than fifty (50) hours of student massage may be attained in this manner and applied to meet the requirements for licensure.

6. 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 barters, donations and/or trades.
  - b. The student may accept gratuities during supervised clinical massage.
7. No student may leave classroom instruction to perform student-client massages.

## **7. Records**

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

## **8. Mics.**

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

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

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

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

## **Section 11**

### **Miscellaneous Guidelines**

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

(3) years. The licensee will receive a hearing in accordance with the process outlined in Article Four and the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et seq.

4. The breast of a client may be treated under the following circumstances:

A. The massage of the breasts is for therapeutic and medical purposes including, without limitation, the reduction of scar tissue following a surgery on the breast, release of myofascial binding, or improving lymphatic flow;

B. The massage therapist has received at least forty-eight (48) hours of continuing education credits in lymphatic massage, myofascial massage, or oncology massage; and

C. there is a valid request from the client, the valid prescription is presented, or there is a referral from a qualified medical professional.

D. A client's breast may not be exposed without first having obtained prior written, signed consent.

E. A written description and explanation is given to the client before the massage begins and permission granted again before uncovering the breast.

F. Treatments must be noted on the client's assessment form.

5. The MTTAC shall revoke the license for a period of three (3) years of a licensee who engages in the practice of massage therapy of the breast tissue without following the process outlined in Paragraph 5 above.


6. Requirements for practicing cupping therapy:

A. The Massage Therapist must have a minimum of six (6) hours in-class, specialized training in cupping therapy which shall include indications, contraindications, hygiene, and hands on techniques.

B. When the six (6) hours of specialized training is provided as part of the curriculum in a massage therapy school or postsecondary massage therapy school, the transcript shall indicate course hours in cupping therapy or a certificate of successful completion shall be issued to the student.

## CERTIFICATION

I hereby certify that the foregoing Rules for Massage Therapy in Arkansas were adopted by the Arkansas State Board of Health on the 24<sup>th</sup> day of October 2019 at Little Rock, Arkansas.

  
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José R. Romero, MD, FAAP, FIDSA, FPIDS, FAAAS  
Secretary of Health  
Arkansas Board of Health