

FISCAL NOTE
Requested by Legislative Council
03/30/2015

Amendment to: SB 2085

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This Bill clears up language and there is no fiscal impact.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Karen Wojahn

Agency: ND State Board of Massage

Telephone: 877-268-8139

Date Prepared: 03/11/2015

FISCAL NOTE
Requested by Legislative Council
12/22/2014

Bill/Resolution No.: SB 2085

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
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3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Karen Wojahn

Agency: ND State Board of Massage

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Date Prepared: 03/11/2015

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2085

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2085
1/12/2015
Job Number 21824

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to Massage Therapist Licensure

Minutes:

Attachments

Chairman Klein: Opened the hearing.

Diane Aull, North Dakota Board of Massage: In support. Written Testimony Attached (1). (:35-5:25)

Chairman Klein: Asked if the public perception is that, Massage Therapists are not ethical. Why are you incorporating it into the education part?

Diane Aull: Ethics is now covered in the massage curriculum. (5:40-8:13)

Chairman Klein: You can't take more than nine hours by internet and the other hours you would have to show up somewhere for hands on?

Diane Aull: She said that was right.

Chairman Klein: There are fines but also revoking of license?

Diane Aull: She said they can revoke the license but it is difficult to do.

Chairman Klein: Asked if there was any push back from their organization or if everyone was on board with the changes.

Diane Aull: They posted the proposed changes online and asked for comments from massage therapists.

Senator Campbell: Asked if the criminal background check is really necessary and what was the difference between Section1 and Section3.

Diane Aull: If a person has a criminal background they would look at that individual to see if they were appropriate to license in North Dakota. Regarding the criminal background check, they have an influx of people from other states who are following the prosperity here and not all of them have good intentions. (14:35-16:59)

Senator Sinner: Asked how many licensed massage therapist there are in North Dakota and if there is a National Organization.

Diane Aull: Around 750. Yes there is a national organization. (17:20-17:43)

Senator Sinner: Asked if the national organization keeps a data base on people so they have someone to go to get a reference from. (17:44-18:09)

Diane Aull: Said there is not one available right now but the Federation of Massage Therapy Boards is working on that but it's not in place now. (18:10-18:22)

Senator Sinner: Asked about the fine and if it is an adequate amount.

Diane Aull: On a yearly base it is in the few hundreds of dollars. We talked about making it higher but the violations we deal with aren't that bad. The violations they generally deal with aren't that bad. They come up with a fine because the person isn't taking care of the violation. It's like a gift certificate that isn't being honored. If it is a criminal violation it goes to the authorities.

Edward Erickson, Assistant Attorney General: He works with the Massage Therapy Licensure Board. There is a data base for healthcare professionals maintained by the Federal Government and the massage therapists are included with that. They do get information regarding licensing violations from other states and they do report disciplinary action to this data base. They have been seeing an increase of Human Traffickers using massage therapy as a disguise for what they are doing. (22:15-28:00)

Pamela M. Blazek, North Dakota - AMIA: She talked about her career as a massage therapist. She is in support of the background checks. In the other states she worked in, she was fingerprinted, photographed and also went through a background check. (28:30-32:12)

Chairman Klein: Closed the hearing.

Senator Campbell motioned for a do pass.

Senator Sinner seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Sinner will carry the bill.

REPORT OF STANDING COMMITTEE

SB 2085: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2085 was placed on the Eleventh order on the calendar.

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2085

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2085
3/9/2015
24467

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Criminal history record checks for massage therapists & licensure.

Minutes:

Attachment 1, 2, 3

Chairman Keiser: Opens the hearing of SB 2085.

Wendy McGinley~Vice President of the North Dakota Board of Massage: (Attachment 1).

Representative Laning: The criminal background checks, how do you use that information? Do you necessarily make it an automatic rejection of that person if they have a criminal background?

McGinley: No, it is on a case by case basis. If they had a minor in possession or DUI ten years ago is that going to impact how they are practicing as a massage therapist today, probably not. If they had a felony of a sexual nature or predator-ish then we probably look at each one as a case by case basis to see if they would put the public at risk.

Representative Amerman: On section 2, what would you consider a substantial financial interest?

McGinley: The way it was described to us by our attorney is that a majority of the income that that person is receiving for that year would be from the massage establishment. If a majority of their income is from being employed by something else then that would be considered not substantial.

Representative Amerman: On the background check, what questions on your application would trigger a criminal history or what would you use?

McGinley: There is a check box that they say are of good moral character and temperate habits. Then there is an affidavit of compliance that they fill out just saying that they are 18 years old, and asks if they have been convicted of anything and if they do they have a place to explain that.

Representative Ruby: In section 4, under the 24 hours of continuing education, it will be dropped from 32, it mentions including at least three hours of ethics. Is that part of the 24 or is that in addition to?

McGinley: It's part of the 24. This is the first time we are asking for ethics to be included in a requirement for continuing education. There are a handful of states that do require ethics into their continuing education of the CEU's.

Representative Ruby: Why do you need to put that into law? Basically the board is going to determine what the continuing education hours are and what training and information they gain.

McGinley: Continuing education we don't suggest any particular topic and we don't state that so many hours has to be hands on or so many hours has to be business. We just say 24 hours continuing education as long as it is massage related, but out of those 24 hours 3 will be in ethics.

Representative Kasper: I would think most people would say that they are a good moral character, so there for how do you determine if you will do a criminal background check?

McGinley: That's our concern. If we don't do a background check and we hire them and something happens we didn't have access to any information to allow us to not license that person. Most schools do a criminal background check before they enter.

Representative Kasper: Your language says you may require, it does not say you will. How are you going to single out which ones you are going to and which ones you aren't?

McGinley: It would be part of our application process. If this goes through then we can allow it to be on our application procedure for licensure in North Dakota. We would just put it on our application check list to now then require it from here on out.

Representative Kasper: If that is the case why don't we just say you will do a background check?

McGinley: Change the may to shall? I would be for that.

Representative Ruby: You kind of opened yourself up to some of the discrimination claims to that you are picking on some and not others.

Edward Erickson: The reason we picked this language is it is the same language that all of the other agencies and licensing boards use. We have the may language in there and the plan is that all new applicants will have to have a criminal history background check and for existing licensees it will only be if there is a particular reason that comes up, whether they are charged with a crime or something else.

Representative Kasper: Why wouldn't we say that all new applications shall undergo a criminal background check and the board may require additional background checks on prior licensees?

Edward: I think is something you could do. I think that would be within the boards plan. I am just mentioning that this language is copied from a lot of other code sections for a lot of other boards and agencies. So we are using the same standard language that all of the others do.

Representative Ruby: The consumer members, what other boards have members who are not part of the profession? Why are there not therapist members on your board?

McGinley: There was a legislative mandate and the main concern is public safety. We are not there to protect all the massage therapist we are there to protect the public. They want them to be true consumer members and not be another massage therapist or are married to married to someone who is a massage therapist.

Representative Becker: Did something come up to prompt the change that they do not have financial interest?

McGinley: There are a lot of other licensing massage therapy boards that have that so that the LNTs are on the border to the massage therapist. The consumer member or the public member is truly representing the public. There is no one standard on how the board is set up and what their composition is.

Representative Becker: Has anything occurred to prompt this change?

McGinley: I'm not aware of anything in the past but I've only been on the board for 3 years.

Representative Devlin: Have you looked at reducing the 750 hours when I see that 40 other states have less than you do? Does that negatively affect reciprocity or anything else?

McGinley: It makes it harder to do reciprocity. We do have a reciprocity clause but it doesn't make it harder. There was talk about it but those of us that have been massage therapists in the state really do like the fact that North Dakota has high standards.

Representative Devlin: Section 4 on page 3, how would you decide if they have a mental condition?

McGinley: We recently had a case that was brought to the board and we were requiring him to undergo a psychological exam and this would allow us to then refer him to a psychologist or a psychiatrist. The board wants to have the ability to refer them to the appropriate authority so we can get the information that we need and that the needs of the board and therapist are being addressed by who we feel is best qualified to address those needs for that person.

Edward Erickson: We wanted broad language. We had a specific instance involving a person who seemed to have some sexual boundary issues with a client where we thought it was more appropriate to have them examined or mental health issues. When we were looking at changing the law we were also thinking that the appropriate profession could be, depending on the nature of the complaint, an addiction counselor.

Representative Laning: How many LMT do you actually oversee in the state of North Dakota?

McGinley: There are roughly 762 as of right now.

Chairman Keiser: The policy on CEU's seems contrary to the common sense. If someone does have a condition that causes them to drop out of practice for a year it would make more sense that they now have a requirement to do some CEU's before re-initiating their practice, but that is not what this does. I was just curious to the logic of the board members.

McGinley: Not that we would waive them all, we would have part of the waived. We had a recent case where the person was put in an inpatient alcohol treatment facility and they had gone through multiple self-help training as part of their alcohol rehabilitation program and what they asked for was forgiveness of their CEU's. We forgave some of their CEU's but required still that they take other CEU's.

Chairman Keiser: It doesn't make sense. I drop out for a year, I still would have had a second year to get my 24 hours if I had stayed in practice and now you are going to waive some. The condition if I dropped out for two or more years should I be required to go back and pick up 24 that could be partially waived, but the language reads that we are going to use the authority to waive them.

Representative Amerman: Section 5, number 2, the 200 dollars for a civil penalty. Can you give me an example of what civil penalty might be?

McGinley: A lot of it is practicing with an expired license.

Karen Wojohn ~ Executive Director of the North Dakota State Board of Massage: I am in support of SB 2085. To clear up what some of the people have been asking, some of the changes in western North Dakota with a lot of the people coming in from out of state a lot of this stuff is to help people. Let just say we do not have an exact number of hours we do a teach out plan that they do not have to do the whole thing over. They can take that wherever they need to. We do have a national data base that we can use to check to see if anyone has been licensed in another state and lost it or has had any probationary time on their licenses, but not all states have it. To waive the continuing Ed they have to have proof like a doctor's note or something that says this is really going on in their life and usually in a two year period you should be able to get your CEUs but people procrastinate so that's why on our CEUs they can do some online and the rest they do hands on. Lots of times what the board does is they still ask them to do the ones online.

Chairman Keiser: In the reciprocity, the only complaint I have received is from a physical therapist trained in other states who for a variety of reasons has moved to North Dakota. They graduated, got a degree and everything else but it was like under the 500 and then they get here and if you don't live in Fargo it is really tough to make up that difference of whatever course you are missing. How are you resolving that?

Karen: We allow them to do an on-line program that has been approved. We have a variety of ways that they can do it that we discuss with them.

Risa Williams ~ Licensed Massage Therapist from Bismarck, ND: I came from Hawaii and did not have the appropriate amount of hours. What I did have was a years' experience in a spa in Florida. I had a certified letter from the spa director and I submitted it to the board. I did have to take three classes. The classes were at Rasmussen College and they required me to submit to a criminal background check. I had forgotten that I had bounced a check when I was 20 years old, it showed up, I was terrified and called the board in a panic. I had been licensed in two states, I love what I do is this going to be a problem and they said absolutely not. As far as the ethics I strongly recommend the three hours be included in the wording. Ethics can be so fuzzy and the more professional we can possibly be the more regulated we can be. It just makes us that much more professional.

Chairman Keiser: Is anyone else here Opposition

Gail Hovden: (Attachment 2).

Chairman Keiser: We will not take final action on this bill because the other bill. Close the hearing,

Representative Kasper: (Attachment 3) I propose that we follow the amendment.

Representative Laning: Seconded.

Representative Ruby: Is this contradictory? First it says the board shall require the applicant and then it says the board may require the licensee under the chapter to submit.

Representative Kasper: Any applicant that is new and the board may require a licensee.

Representative Amerman: Where would this go? What would replace what lines?

Representative Kasper: Not audible.

Motion to Adopt Amendment.

Motion made by Representative Kasper.

Seconded by Representative Laning.

Voice Vote

Motion Carried.

Erickson: The language in section 1 needs to be there also. That is the section that allows the BCI to perform the criminal history background check. You need a statute authorizing the agency or the board in the practice act, which is what you see in section three of the bill but you also need a section authorizing the BCI to perform the check which is in section 1, so we need to keep that.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2085
3/24/2015
25342

Subcommittee

Ellen Atang

Explanation or reason for introduction of bill/resolution:

Massage therapist bills.

Minutes:

Attachment 1

Meeting Location: House conference room.

Members Present: Chairman Sukut, Representative Kasper, Representative Amerman, Chairman Keiser, Brian Johnson~Intern.

Others present: Pat Berg~Self, Gail Hovden, Edward Erickson~Assist Atty General, Wendy McGiney, Dianne Aull, Robert Benson, John Simmons, Steve Olson, Todd Salwey.

TOPIC DISCUSSED

Vice Chairman Sukut: To merge Senate bills 2085 & 2294.

~We will amend to SB 2085. (Attachment 1).

- Criminal check, what we changed "may" to "shall". Both sides were ok.
- Continuing Education-24 hours were agreed by everyone.
- Ethics-3 hours every 6 years that will be tracked by the board.
- 9 CEU's-everyone was ok
- Penalty for violation-increased from \$100 to \$200.
- Issue of the board makeup-logging 500 hours and add a non-voting member to represent education
- 750 hours for licensing-let the board decide.

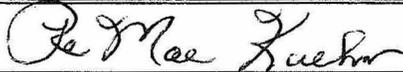
Vice Chairman Sukut: Closes the subcommittee.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2085
3/25/2015
Job Number 25429

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Criminal history record checks for massage therapists & licensure.

Minutes:

Attachment 1, 2, 3

Chairman Keiser: Opens the work session.

Vice Chairman Sukut: We have merged SB 2294 & 2085. Refers to marked up version .01002 with explanation. (Attachment 1).

Representative Laning: On line 15 you are changing from five to six members.

Vice Chairman Sukut: Yes.

Representative Amerman: Is letter b on page 1 where we bring in from SB2294?

Vice Chairman Sukut: Yes. Page 1, lines 21, 22, 23 to page 2, lines 1-2 will be deleted and replaced with this new amendment. That is coming over from SB 2294. (Attachment 3).

Representative Ruby: Why do we have two members that are consumers? Why not have one consumer member. Then the person from the school would be allowed to vote because then it would be five members. There would be three active massage therapists who would still have control of the board.

Chairman Keiser: It was two in current law.

Chairman Keiser: How many massage schools and how many instructors would meet the criteria?

Vice Chairman Sukut: Three massage schools. There is one in Williston, Fargo, and Grand Forks.

Chairman Keiser: How many instructors?

Vice Chairman Sukut: I don't know.

Representative Hanson: Do you have to go to a North Dakota massage school to practice in North Dakota.

Chairman Keiser: No.

Vice Chairman Sukut: This clause with a nonvoting member, you may not find anyone willing to do that.

Chairman Keiser: The Governor would have to appoint that member.

Representative Ruby: I would think they could get consultation from the schools.

Representative Kasper: The teaching person would be more in tune with the changes and updates in the business of massage. If there are new techniques you would want that at the board level as soon as possible.

Chairman Keiser: Do we need to have an instructor on the board?

Representative Kasper: Where would you get more valuable information: two consumers or one consumer and one massage teacher? I have been on boards as a nonvoting member. It is not any fun. What you say doesn't matter. I would have no objection amending to the 3-1-1 with the teacher as a voting member and get rid of one consumer member.

Chairman Keiser: This is a consumer member that can provide feedback and not a public member.

Representative Ruby: I wouldn't have a problem with a public member either.

Representative Ruby: Moves amendment to have one consumer member who is a voting member and have the instructor also be a voting member on the board. So there would be five people. Three are massage therapists actively working, one is an education member, and one is a consumer.

Representative Laning: Seconded the motion

Representative Becker: Do we need to declare the number of years for each member on the board?

Representative Ruby: The non-therapist or instructor was 2-year terms. The instructor is 3 years which is the same for other members.

(16:30)

Chairman Keiser: So your motion has it left at 2 years staggered for the 2 non massage members, and for the massage members would be 3 years staggered.

Voice vote-motion carried.

Representative Devlin: How did you get the 500 hours?

Representative Kasper: Massage folks indicated that 500 hours is good because a lot of them are part-time. We compromised at 500 hours. If that is not good we can come back and change it next session.

Chairman Keiser: Massage therapists have a short career span averaging 9 years.

Representative Devlin: As we have expanded the number of boards, soon we won't be able to find someone in North Dakota that isn't a member of another health care licensing board or commission.

Representative M Nelson: I thinking the same since UND-Williston is a massage school. Does that mean that anyone associated with UND-Williston can't be on this board as a consumer member? Is that correct?

Representative Kasper: It says affiliated with a massage school. The school of massage at UND would be the interpretation.

Vice Chairman Sukut: Continues explaining marked up version, page 2. **(Attachment 1).**

(25:00)

Chairman Keiser: Page 3, lines 23-24, we need to get that worded correctly.

Representative Becker: Did the subcommittee have a discussion on eliminating the ethics?

Vice Chairman Sukut: There was discussion on that. It is something that has been in the code. The six years is new.

Chairman Keiser: When you come out of school and you get your license, you should be up to date. What do you think about just requiring 3 of the first 24 hours in the first two years to be ethics? Then we don't have confusing language with the two year and six year.

Representative Amerman: Ethics was taught in the school.

Representative Ruby: Moved to amend to 3 hours of ethics training.

Representative Kasper: Seconded.

Voice Vote. Motion carried.

(28:52)

Vice Chairman Sukut: Continues explaining marked up version (**Attachment 1**).

Representative Kasper: Page 6, line 6, it says for "an in-person meeting." More meetings are being done by teleconference.

Representative Kasper: Moves to amend page 6, line 6 by changing to "any authorized board meeting whether in person or by remote."

Vice Chairman Sukut: Seconded the motion.

Voice Vote. Motion carried.

Vice Chairman Sukut: Continues talking from marked up version (**Attachment 1**).

Vice Chairman Sukut: Moved all amendments contained in marked up version.
Amendment 15.8037.01002 (Attachment 2)

Representative Amerman: Seconded the motion.

Representative Hanson: Did the subcommittee look into the previous bill hearings when it was first expanded in 2001?

Vice Chairman Sukut: No.

Representative Hanson: They expanded from three to five because the schools felt left out.

Voice Vote. Motion carried.

Vice Chairman Sukut: Moved Do Pass as amended.

Representative Kasper: Seconded the motion.

A Roll Call vote was taken: Yes 11, No 3, Absent 1.

Do Pass as amended carries.

Representative Sukut will carry the bill.

43-25-08.1 Criminal History records check

The board shall require any applicant under this chapter to submit to a statewide and nationwide criminal history record check. The board may require a licensee under this chapter to submit to a statewide and nationwide criminal history record check if the board deems necessary. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a criminal history check are the responsibility of the applicant or licensee.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2085

Page 1, line 3, after the first comma insert "43-25-05.1, 43-25-06,"

Page 1, line 10, remove ", except that criminal history checks need not be made"

Page 1, line 11, remove "unless required by the board"

Page 1, after line 14 insert "1."

Page 1, line 15, overstrike "five" and insert immediately thereafter "six"

Page 1, line 15, after the period insert "a."

Page 1, line 16, replace "actively" with "annually work at least five hundred hours"

Page 1, line 17, overstrike "The" and insert immediately thereafter "These"

Page 1, line 18, after "for" insert "terms of"

Page 1, line 18, after the period insert "b."

Page 1, line 19, overstrike "additional" and insert immediately thereafter "of the"

Page 1, line 19, after the first "members" insert "of the board"

Page 1, line 21, after "members" insert ". These members must be appointed"

Page 1, line 22, after the period insert

"c. One of the members of the board must be an instructor at a school of massage that meets the standards set by the board. This member must be appointed for a term of three years and is a nonvoting member of the board.

d."

Page 2, after line 2 insert "2."

Page 2, after line 6, insert:

"SECTION 3. AMENDMENT. Section 43-25-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-25-05.1. Powers and duties of the board.

The board has the following powers and duties:

1. The board may adopt and enforce rules as necessary to implement this chapter.
2. The board ~~may~~ periodically shall inspect or cause to be inspected all massage establishments. The board and ~~its~~ the board's agents ~~are~~ authorized to enter and inspect any massage establishment at any time during which the establishment is open for the transaction of business.

3. The secretary-treasurer ~~may~~shall prepare and submit to the governor a biennial report detailing income and expenses and a list of licensed massage therapists.
4. The board may hire office personnel deemed necessary by ~~it~~the board for carrying on ~~its~~the board's official duties and shall set the compensation to be paid to the personnel.

SECTION 4. AMENDMENT. Section 43-25-06 of the North Dakota Century Code is amended and reenacted as follows:

43-25-06. Removal of members of board of massage - Officers of the board.

The governor may remove from office ~~members~~a member of the board for failure to maintain the qualifications for appointment, for neglect of duties as required by this chapter ~~or~~, for malfeasance in office and incompetency, or for unprofessional conduct. The governor may fill any vacancy caused by removal of any member of the board, on the member's resignation or death."

Page 2, line 10, replace "may" with "shall"

Page 2, line 10, replace "any" with "an"

Page 2, line 10, remove "or licensee"

Page 2, line 11, after the underscored period insert "The board may require a licensee under this chapter to submit to a statewide and nationwide criminal history record check."

Page 2, line 22, after "ethics" insert "earned over the course of six years"

Page 2, line 27, after "individuals" insert "shall"

Page 2, line 27, overstrike "their"

Page 2, line 28, after "individuals" insert "shall"

Page 2, line 28, overstrike "their"

Page 5, line 2, overstrike "shall" and insert immediately thereafter "are entitled to"

Page 5, line 9, overstrike "person" and insert immediately thereafter "individual"

Page 5, line 15, overstrike "a person"

Renumber accordingly

March 25, 2015

SK
3/20/15
1/3

PROPOSED AMENDMENTS TO SENATE BILL NO. 2085

Page 1, line 3, after the first comma insert "43-25-05.1, 43-25-06,"

Page 1, line 10, remove ", except that criminal history checks need not be made"

Page 1, line 11, remove "unless required by the board"

Page 1, after line 14 insert:

"1."

Page 1, line 15, after the period insert:

"a."

Page 1, line 15, overstrike "of the"

Page 1, line 16, replace "actively" with "annually work at least five hundred hours"

Page 1, line 17, overstrike "The" and insert immediately thereafter "These"

Page 1, line 18, after "for" insert "terms of"

Page 1, line 18, overstrike "Two"

Page 1, overstrike line 19

Page 1, line 20, overstrike "massage therapist,"

Page 1, line 20, replace "nor have a direct and substantial financial interest in massage therapy." with

"b. One member of the board"

Page 1, line 21, overstrike "appointed as" and insert immediately thereafter "a"

Page 1, line 21, overstrike "members" and insert immediately thereafter "member. To qualify as a consumer member an individual may not be or have been a massage therapist, may not have an immediate family member who is a massage therapist, may not be an owner of or have an affiliation with a massage school, may not be a current or past member of any other health care licensing entity, may not have a fiduciary obligation to a facility rendering health care services, and may not have a direct and substantial financial interest in massage therapy. This member must be appointed"

Page 1, line 21, after "for" insert "a"

Page 1, line 21, overstrike "terms" and insert immediately thereafter "term"

Page 1, line 21, overstrike "of one"

Page 1, line 22, overstrike "member expires each year" and insert immediately thereafter "expires with a licensed board member but not with the instructor board member"

Page 1, line 22, after the period insert:

"c. One member of the board must be an instructor at a school of massage that meets the standards set by the board. This member must be appointed for a term of two years staggered so it expires with a licensed board member but not with the consumer board member.

d."

Page 2, after line 2 insert:

"2."

Page 2, after line 6, insert:

"SECTION 3. AMENDMENT. Section 43-25-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-25-05.1. Powers and duties of the board.

The board has the following powers and duties:

1. The board may adopt and enforce rules as necessary to implement this chapter.
2. The board ~~may~~ periodically shall inspect or cause to be inspected all massage establishments. The board and ~~its~~the board's agents are ~~authorized to~~may enter and inspect any massage establishment at any time during which the establishment is open for the transaction of business.
3. The secretary-treasurer ~~may~~shall prepare and submit to the governor a biennial report detailing income and expenses and a list of licensed massage therapists.
4. The board may hire office personnel deemed necessary by ~~it~~the board for carrying on ~~its~~the board's official duties and shall set the compensation to be paid to the personnel.

SECTION 4. AMENDMENT. Section 43-25-06 of the North Dakota Century Code is amended and reenacted as follows:

43-25-06. Removal of members of board of massage - Officers of the board.

The governor may remove from office ~~members~~a member of the board for failure to maintain the qualifications for appointment, for neglect of duties as required by this chapter ~~or~~, for malfeasance in office and incompetency, or for unprofessional conduct. The governor may fill any vacancy caused by removal of any member of the board, on the member's resignation or death."

Page 2, line 10, replace "may" with "shall"

Page 2, line 10, replace "any" with "an"

Page 2, line 10, remove "or licensee"

Page 2, line 11, after the underscored period insert "The board may require a licensee under this chapter to submit to a statewide and nationwide criminal history record check."

Page 2, line 22, remove "including at least three hours of ethics."

Page 2, line 23, after the period insert "For the first renewal after becoming licensed in this state, a minimum of three hours of the required twenty-four hours must be ethics education."

Page 2, line 27, after "individuals" insert "shall"

Page 2, line 27, overstrike "their"

Page 2, line 28, after "individuals" insert "shall"

Page 2, line 28, overstrike "their"

Page 5, line 2, overstrike "shall" and insert immediately thereafter "are entitled to"

Page 5, line 2, remove "for an in-person meeting"

Page 5, line 9, overstrike "person" and insert immediately thereafter "individual"

Page 5, line 15, overstrike "a person"

Renumber accordingly

Date: Mar 9, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2085

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: Attachment #3

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Kasper Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

voice vote

Total (Yes) _____ No _____

Absent _____

Floor Assignment Motion Carried

If the vote is on an amendment, briefly indicate intent:

43-25-08-1 Criminal History records check

Date: Mar 25, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2085

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep. Ruby Seconded By Rep. Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

1- non-consumer
1- educator
limit of 5
3- active therapists

w/ 2 yr stagg
+ 3 yr stagg

voice vote-
motion carried

Date: Mar 25, 2015

Roll Call Vote: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2085

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: 3 hr's of ethics

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider

Motion Made By Rep. Ruby Seconded By Rep. Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote - motion carried

Date: Mar 25, 2015

Roll Call Vote: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2085

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: Remote included as attending a meeting

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep. Kasper Seconded By Rep. Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote - motion carried.

Date: Mar 25, 2015

Roll Call Vote: 4

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2085

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: moves the amendments - 15.803 2.01002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider

Motion Made By Rep. Sukut Seconded By Rep. Amerman

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Voice Vote

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

motion Carried

Date: 3/25/15
 Roll Call Vote: 5

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES**
BILL/RESOLUTION NO. 2085

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Rep. Sukut Seconded By Rep. Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle		X	Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin		X	Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson		X
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	X				

Total (Yes) 11 No 3

Absent 1

Floor Assignment Rep. Sukut

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2085: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SB 2085 was placed on the Sixth order on the calendar.

Page 1, line 3, after the first comma insert "43-25-05.1, 43-25-06,"

Page 1, line 10, remove "except that criminal history checks need not be made"

Page 1, line 11, remove "unless required by the board"

Page 1, after line 14 insert:

"1."

Page 1, line 15, after the period insert:

"a."

Page 1, line 15, overstrike "of the"

Page 1, line 16, replace "actively" with "annually work at least five hundred hours"

Page 1, line 17, overstrike "The" and insert immediately thereafter "These"

Page 1, line 18, after "for" insert "terms of"

Page 1, line 18, overstrike "Two"

Page 1, overstrike line 19

Page 1, line 20, overstrike "massage therapist,"

Page 1, line 20, replace "nor have a direct and substantial financial interest in massage therapy." with

"b. One member of the board"

Page 1, line 21, overstrike "appointed as" and insert immediately thereafter "a"

Page 1, line 21, overstrike "members" and insert immediately thereafter "member. To qualify as a consumer member an individual may not be or have been a massage therapist, may not have an immediate family member who is a massage therapist, may not be an owner of or have an affiliation with a massage school, may not be a current or past member of any other health care licensing entity, may not have a fiduciary obligation to a facility rendering health care services, and may not have a direct and substantial financial interest in massage therapy. This member must be appointed"

Page 1, line 21, after "for" insert "a"

Page 1, line 21, overstrike "terms" and insert immediately thereafter "term"

Page 1, line 21, overstrike "of one"

Page 1, line 22, overstrike "member expires each year" and insert immediately thereafter "expires with a licensed board member but not with the instructor board member"

Page 1, line 22, after the period insert:

"c. One member of the board must be an instructor at a school of massage that meets the standards set by the board. This member must be appointed for a term of two years staggered so it expires with a licensed board member but not with the consumer board member.

d."

Page 2, after line 2 insert:

"2."

Page 2, after line 6, insert:

"SECTION 3. AMENDMENT. Section 43-25-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-25-05.1. Powers and duties of the board.

The board has the following powers and duties:

1. The board may adopt and enforce rules as necessary to implement this chapter.
2. The board ~~may~~ periodically shall inspect or cause to be inspected all massage establishments. The board and ~~its~~the board's agents are ~~authorized to~~may enter and inspect any massage establishment at any time during which the establishment is open for the transaction of business.
3. The secretary-treasurer ~~may~~shall prepare and submit to the governor a biennial report detailing income and expenses and a list of licensed massage therapists.
4. The board may hire office personnel deemed necessary by ~~it~~the board for carrying on ~~its~~the board's official duties and shall set the compensation to be paid to the personnel.

SECTION 4. AMENDMENT. Section 43-25-06 of the North Dakota Century Code is amended and reenacted as follows:

43-25-06. Removal of members of board of massage - Officers of the board.

The governor may remove from office ~~members~~a member of the board for failure to maintain the qualifications for appointment, for neglect of duties as required by this chapter ~~or~~, for malfeasance in office and incompetency, or for unprofessional conduct. The governor may fill any vacancy caused by removal of any member of the board, on the member's resignation or death."

Page 2, line 10, replace "may" with "shall"

Page 2, line 10, replace "any" with "an"

Page 2, line 10, remove "or licensee"

Page 2, line 11, after the underscored period insert "The board may require a licensee under this chapter to submit to a statewide and nationwide criminal history record check."

Page 2, line 22, remove "including at least three hours of ethics."

Page 2, line 23, after the period insert "For the first renewal after becoming licensed in this state, a minimum of three hours of the required twenty-four hours must be ethics education."

Page 2, line 27, after "individuals" insert "shall"

Page 2, line 27, overstrike "their"

Page 2, line 28, after "individuals" insert "shall"

Page 2, line 28, overstrike "their"

Page 5, line 2, overstrike "shall" and insert immediately thereafter "are entitled to"

Page 5, line 2, remove "for an in-person meeting"

Page 5, line 9, overstrike "person" and insert immediately thereafter "individual"

Page 5, line 15, overstrike "a person"

Renumber accordingly

2015 TESTIMONY

SB 2085

Testimony from the State Massage Board on S.B. No. 2085
Dianne Aull, Board Member
January 12, 2015

Chairman Klein, Members of the Committee, Ladies and Gentlemen,

I am Dianne Aull. I am here representing the North Dakota Board of Massage and have served on the state board of massage for the past year and a half. I am here together with Pat Berg and Wendy McGinley, fellow board members, to support **Senate Bill 2085** , introduced by the North Dakota Board of Massage.

Section 1 is in conjunction with our proposed new requirement of criminal background checks to permit the board to use discretion in requiring background checks for current licensees in good standing.

Section 2 adds an experience requirement for massage therapists who serve on our board to assure that members of the board are familiar with the laws of our state and with the business of massage therapy, and are actively practicing that trade so that those members provide the perspective of massage therapists.

The other change in section 2 is for the purpose of further avoiding a conflict of interest and ensuring that a consumer member on the board truly serves to represent the interests of consumers and not their own personal interest.

Section 3 would require criminal background checks for anyone seeking a massage therapy license in our state, and also those licensees under investigation. The purpose of North Dakota's massage therapy law is to protect the public and the board sees this as a major tool for doing so. Most other states with massage therapy licensing laws require criminal background checks.

Section 4 reduces the number of continuing education hours required for license renewal from 32 hours per biennium to 24 hours per biennium and adds a requirement of 3 of those 24 hours to be in ethics. North Dakota presently requires far more continuing education for massage therapists than any other state. Most states with licensing that require continuing education require 24 hours per biennium. Nine of the states with licensing do not require any continuing education.

Within our state many highly technical professions require less continuing education per biennium than is required of massage therapists – in a profession that is not necessarily highly technical. I'm including a handout with some examples.

The massage law is to protect the public and that protection is not enhanced by excessive continuing education.

This excessive continuing education poses a burden for massage practitioners to the extent that many good therapists leave the profession because of it. Typically we massage therapists spend \$100 per year to renew our license, and \$200 plus per year to pay for continuing education. Additionally, most people need to pay for their own travel, lodging and meal expenses incurred while obtaining their CEUs. For many people this can add up to five or six hundred dollars to get one year's worth of CEUs.

Testimony from the State Massage Board on S.B. No. 2085
Dianne Aull, Board Member
January 12, 2015

This over-regulation is similar to applying eight coats of paint where two or three will do just fine.

The second change in section 4 is to require 3 hours of ethics education per two year period. This is added to further protect consumers from intentional and unintentional violations of boundaries and ethics.

The third change in section 4 would allow new licensees to not need to obtain continuing education hours within the year that they got licensed. Their hourly requirements would begin in January of the following year.

The fourth change in section 4 permits the board of massage to waive continuing education requirements in cases of extreme hardship due to health issues or other cause deemed as sufficient by the board.

The fifth change in this section would allow the board to require a mental health evaluation by a professional if there is good reason to suspect a mental health issue which might affect the safety of consumers.

Section 5 raises the penalty the board can impose for civil violations of chapter 43-25 from \$100 to \$200, and also requires complaints to be signed, to avoid investigations based on hearsay.

Section 6 clears up confusion about which instances the board can be reimbursed and how much the reimbursement may be.

Section 7 changes wording from registered and registration to licensed and licensure to be more consistent with terminology used in the massage therapy field.

I would be happy to answer any questions you might have.
Thank you for your time.

EXAMPLES OF ND CONTINUING EDUCATION REQUIREMENTS
(*average* annual hours of continuing ed. required)

- Appraiser14 hrs
 - Abstracter.....6 hrs
 - Audiologist.....10 hrs
 - Barber.....3 hrs
 - Clinical Lab Practitioner....11 hrs
 - Dental Assistant.....7 hrs
 - Pharmacist.....15 hrs
 - Physical Therapist.....12.5 hrs
 - Real Estate Licenses.....9 hrs
 - Respiratory Therapist.....10 hrs
 - Speech Pathologist.....10 hrs
 - Water Well Contrators....6 hrs
 - Veteranarians.....12 hrs
 - Nurses.....6 hrs
- (including RNs, LPNs, Advanced Practice Nurse, and Specialized Practice Nurse)

Passage of this amendment would change *average* amount of yearly continuing ed for massage therapists from 16 hrs to 12 hrs.

#1



Massage State Regulation Guide

Use this card to check out each state's regulatory requirements for massage therapy. To get the most up-to-date information, log in at www.abmp.com and click on the legislative state map member section, or call 800-458-2267. Last update March 2014.

State	Liability Insurance	Designation	Educational hours	Renewal CEU* hrs/year	Exam(s) Required	Additional Requirements	Telephone
Alabama	Prior to license	License (LMT)	650	16/2	MBLEx OR NCBTMB and State exam	Accredited school only	866-873-4664
Alaska		No state regulation				Local requirements apply	
Arizona		License (LMT)	700	24/2	MBLEx OR NCBTMB (unless grad from AZ JSDOE accredited school)	Background check	602-542-8604
Arkansas		License (LMT)	500	18/2	MBLEx OR NCBTMB	TB test, background check	501-683-1448
California		Voluntary certification A. Therapist (CMT) B. Practitioner (CMP)	A. 500 B. 250	none/2	MBLEx or NCBTMB + 250 hrs=CMT	Background check	916-669-5336
Colorado	Prior to registration	Registration (RMT) License (LMT) 7/1/14	500	none/2	MBLEx OR NCBTMB	Background check	303-894-7800
Connecticut		License (LMT)	500	24/4	NCBTMB	Accredited school only	860-509-7603
Delaware		A. License (Therapist-LMT) OR B. Certification (Technician-CMT)	A. 500 B. 300	24/2 OR 12/2	A. MBLEx OR NCBTMB B. not required	Background check, CPR, temporary license available	302-744-4500
District of Columbia		License (LMT)	500	12/2	MBLEx OR NCBTMB	Background check	877-672-2174
Florida		License (LMT)	500	24/2	MBLEx OR NCBTMB	Medical error prevention course, HIV/AIDS course, FL laws	850-245-4161
Georgia		License (LMT)	500	24/2	MBLEx OR NCBTMB	Background check	478-207-2440
Hawaii		License (LMT)	570	none/2	Hawaii state	CPR	808-587-3222
Idaho		License (LMT)	500	6/1	MBLEx OR NCBTMB	grandfathering ends 7/1/14	208-334-3233
Illinois		License (LMT)	600	24/2	MBLEx OR NCBTMB	Background check	217-785-0800
Indiana	Prior to certification	Certification (CMT)	500	none/3	MBLEx OR NCBTMB	Background check	317-234-2051
Iowa		License (LMT)	600	24/2	MBLEx OR NCBTMB	CPR	515-281-6959
Kansas		No state regulation				Local requirements apply	
Kentucky		License (LMT)	600	24/2	MBLEx OR NCBTMB		502-564-3296
Louisiana		License (LMT)	500	12/1	MBLEx OR NCBTMB	Provisional license available, Background check	225-771-4090
Maine		License (LMT)	500	none/1	MBLEx OR NCBTMB alternative to education	CPR, background check	207-624-8603
Maryland		A. License (LMT) or B. Registration (RMT)	A. 500 and 60 college credit OR B. 500	24/2	MBLEx OR NCBTMB OR NCCAOM	Accredited school only, CPR, jurisprudence exam, background check	410-764-2965
Massachusetts	Prior to license	License (LMT)	650	none/1	not required		617-727-1747
Michigan		License (LMT)	500		MBLEx OR NCBTMB	New implementation - must be licensed by 11/29/2014	517-335-0918
Minnesota		No state regulation				Local requirements apply	

4

MBLEx: licensing exam offered by the Federation of State Massage Therapy Boards. *CEU: continuing education hours required for renewal of license. NCBTMB offers 2 exams, the NCBTMB and NCETM; check with your state to determine which it accepts.

1 #

State	Liability Insurance	Designation	Educational hours	Renewal CEU hrs/year	Exam(s) Required	Additional Requirements	Telephone
Mississippi		License (LMT)	700	24/2	MBLEx OR NCBTMB	Background check, CPR, state exam	601-732-6038
Missouri	Prior to license	License (LMT)	500	12/2	MBLEx OR NCBTMB OR NCCAOM	Background check, state exam, provisional license	573-522-6277
Montana		License (LMT)	500	12/2	MBLEx OR NCBTMB		406-841-2369
Nebraska		License (LMT)	1000	24/2	MBLEx OR NCBTMB	Background check	402-471-2115
Nevada		License (LMT)	500	12/1	MBLEx OR NCBTMB	Background check, temporary license	775-688-1888
New Hampshire		License (LMT)	750	12/2	MBLEx OR NCBTMB	CPR, first aid, license for techniques	603-271-0277
New Jersey		License (LMT)	500	20/2	MBLEx OR NCETMB accepted as alternative to education	New implementation: Background check, CPR/First aid/AED	973-504-6520
New Mexico		License (LMT)	650	16/2	MBLEx OR NCBTMB	Jurisprudence exam, first aid, CPR	505-476-4870
New York		License (LMT)	1000	36/3	NY state	CPR, CE req. begin 1/1/2012	518-474-3817
North Carolina		License (LMT)	500	24/2	MBLEx	Background check	919-546-0050
North Dakota		License (LMT)	750	32/2	MBLEx OR NCBTMB	physical exam, no contagious disease, CPR	701-872-4895
Ohio		License (LMT)	750	none/ 2	MBLEx	Background check	614-466-3934
Oklahoma		No state regulation				Local requirements apply	
Oregon		License (LMT)	500	25/2	MBLEx OR NCBTMB	Practical exam, jurisprudence exam, CPR, background check	503-365-8657
Pennsylvania		License (LMT)	600	24/2	MBLEx OR NCBTMB	background check, CPR	717-783-7155
Puerto Rico	Prior to license	License (LMT)	1000	TBD/3	MBLEx	CPR, health certificate, background check	787-725-8538
Rhode Island		License (LMT)	500	none/1	MBLEx OR NCBTMB	Health certificate, background check	401-222-2827
South Carolina		License (LMT)	500	12/2	MBLEx OR NCBTMB		803-896-4490
South Dakota	Prior to license	License (LMT)	500	8/1	MBLEx OR NCBTMB		605-271-7103
Tennessee		License (LMT)	500	25/2	MBLEx OR NCBTMB	Background check, jurisprudence exam	615-532-3202
Texas		License (LMT)	500	12/2	MBLEx OR NCBTMB	Background check, jurisprudence exam	512-834-6616
Utah		License (LMT)	600	none/2	MBLEx OR NCBTMB	Background check, jurisprudence exam, temp. license avail.	801-530-6628
Vermont		No state regulation				Local requirements apply	
Virginia		Certification (CMT)	500	24/2	MBLEx OR NCBTMB	Provisional certification available	804-662-9909
Washington		License (LMP)	500	24/2	MBLEx OR NCBTMB	HIV-AIDS training, jurisprudence exam, CPR/first aid, background check	360-236-4700
West Virginia		License (LMT)	500	24/2	MBLEx OR NCBTMB		304-558-1060
Wisconsin	Prior to license	License (LMT)	600	TBD/2	MBLEx OR NCBTMB OR NCCAOM	AED/CPR/first aid, jurisprudence exam	608-266-2112
Wyoming		No state regulation				Contact your city clerk to find local requirements.	

5

MBLEx licensing exam offered by the Federation of State Massage Therapy Boards. * CEU - Continuing education hours required for renewal of license. NCBTMB offers 2 exams - NCETMB and NCETM. check your state to determine which it accepts.

1
SB 2085
3-9-15

North Dakota State Board of Massage on Senate Bill No. 2085

Wendy McGinley, Vice President

March 9, 2015

Good morning Chairman Keiser and members of the Industry, Business and Labor Committee. My name is Wendy McGinley. I am the Vice President of the ND Board of Massage, a licensed massage therapist, and the Program Coordinator and Instructor for massage therapy at Williston State College. I am here to explain why the ND Board of Massage would like you to pass Senate Bill No. 2085.

Section 2 – the Board is proposing that the massage therapists that serve on the Board be actively practicing massage in this state for 3 years before being able to run for a Board position – and – that the consumer members that serve on the Board not have a substantial financial interest in massage therapy (such as owning a massage school).

Section 3 – The Board would have the ability to require a criminal background check of applicants applying for licensure or any current licensee.

Section 4 # 3– The Bill would decrease the amount of CEUs required from 32 hours every 2 years to 24 hours every 2 years and would include 3 hours of ethics for each reporting period. It would also decrease the amount of hours that can be obtained online from 12 hours to 9 hours. ND is the only state that requires this many hours for continuing education and this change would put us in alliance with most of the other states that require continuing education.

Subsection 3b – This change would allow new licensees to not have to obtain continuing education hours within the year that they got licensed. Their hourly requirements would begin in January of the following year.

Subsection 3c – This addition would allow the Board the ability to waive the continuing education requirements for a licensee for good cause (such as undergoing cancer treatments and unable to work, surgery, etc.)

4 – Changing wording to allow the Board to refer massage therapists or applicants who have a physical or mental condition to the appropriate examiner that is approved by the Board.

Section 5 #2 – Bill would allow Board to assess a fee of up to \$200 for a civil penalty.

#3 – This change would require that a complaint brought to the Board be signed by the complainant.

Section 6 – This section clears up some confusion with Board compensation.

Section 7 – We are changing wording from registered and registration to licensed and licensure to be more consistent with terminology used in the massage therapy field.

I would like to thank you for your time. I would be happy to answer any questions you may have on this Bill.

Respectfully,



Wendy McGinley

State/Province	Contact	Title/Type of Credential	Required Education	Exams Accepted	Renewal Fee Interval	CEUs Req. Interval
Alabama	(866) 873-4664 www.almtbd.state.al.us	Massage Therapist/License	650 hours	NCETMB or MBLEx	\$100/2yr	16/2yr
Arizona	(602) 542-8604 www.massageboard.az.gov	Massage Therapist/License	700 hours	NCETMB or MBLEx	\$95/2yr	24/2yr
Arkansas	(501) 683-1448 www.arkansasmassagetherapy.com	Massage Therapist/License Master Massage/Therapist/Instructor	500 hours	MBLEx or NCETMB, and State Law Exam	\$80/2yr	18/2yr
California	(916) 669-5336 www.camtc.org	Massage Practitioner/Certification Massage Therapist/Certification	250 hours 500 hours	Exam not required	\$150/2yr	N/A
Colorado	(303) 894-7800 www.dora.colorado.gov/professions/massage therapists	Massage Therapist/Registration	500 hours	NCETMB or MBLEx	\$79/2yr	N/A
Connecticut	(860) 509-7603 www.dph.state.ct.us	Massage Therapist/License	500 hours	NCETMB	\$250/2yr	24/4yr
Delaware	(302) 744-4500 www.dpr.delaware.gov	Massage Technician/Certified Massage Therapist/License	300 hours 500 hours	Exam not required NCETMB or MBLEx	\$118/2yr	12/2yr 24/2yr
Florida	(850) 245-4161 www.doh.state.fl.us/mqa/massage	Massage Therapist/License	500 hours	NCETMB, NCETM or MBLEx	\$105/2yr	24/2yr
Georgia	(478) 207-2440 www.sos.georgia.gov/plb/massage	Massage Therapist/License	500 hours	NCETMB or MBLEx	\$75/2yr	24/2yr
Hawaii	(808) 586-3000 www.hawaii.gov/dcca/areas/pvl/boards/massage	Massage Therapist/License	570 hours	State Exam	\$120/2yr	0
Idaho	(208) 334-3233 www.ibol.idaho.gov	Massage Therapist/License	500 hours	NCETMB, NCETM or MBLEx	\$75/yr	6/yr
Illinois	(800) 560-6420 www.idfpr.com	Massage Therapist/License	600 hours	NCETMB or MBLEx	\$175/2yr	24/2yr
Indiana	(317) 234-2051 www.in.gov/pla/massage.htm	Massage Therapist/Certification	500 hours	NCETMB, MBLEx or an exam deemed equivalent by the Board	\$150/4yr	N/A
Iowa	(515) 281-6959 www.idph.state.ia.us/licensure	Massage Therapist/License	600 hours	NCETMB or MBLEx	\$60/2yr	24/2yr
Kentucky	(502) 564-3296, ext. 239 http://bmt.ky.gov	Massage Therapist/License	600 hours	NCETMB, MBLEx, OH and NY State Exams	\$100/2yr	24/2yr
Louisiana	(225) 756-3488 www.labmt.org	Massage Therapist/License	500 hours	NCETMB, MBLEx or NCCAOM	\$125/yr	12/yr
Maine	(207) 624-8626 www.maine.gov/professionallicensing	Massage Therapist/License	500 hours or exam	NCETMB or MBLEx	\$40/yr	0
Maryland	(410) 764-4738 www.mdmassage.org	Massage Practitioner/Registration Massage Therapist/License	500 hours 500 hours + 60 college credits	NCETMB, NCETM, MBLEx, NCCAOM and State Exam	\$250/2yr (RMP) \$278/2yr (LMT)	24/2yr
Massachusetts	(617) 727-3074 www.mass.gov/dpl/boards/mt/index.htm	Massage Therapist/License	650 hours	N/A	\$150/yr	0
Michigan	(517) 335-0918 www.michigan.gov/healthlicense	Massage Therapist/License	500 hours	NCETMB, NCETM or MBLEx	\$225/3yr	N/A
Minnesota	(651) 201-3731 www.health.state.mn.us/divs/hpsc/hop/ocap/index.html	Freedom of Access laws in effect---contact state or local entity for information.				
Mississippi	(601) 732-6038 www.msbt.state.ms.us	Massage Therapist/License	700 hours	NCETMB, MBLEx or State Exam	\$200/2yr	24/2yr
Missouri	(573) 522-6277 http://pr.mo.gov/massage.asp	Massage Therapist/License	500 hours	NCETMB, NCETM, MBLEx, NCCAOM, ABT, AMMANCE NBCE or Exam approved by Board	\$100/2yr	12/2yr
Montana	(406) 841-2202 www.massagetherapists.mt.gov	Massage Therapist/License	500 hours	NCETM, NCETMB, or MBLEx	\$90/yr	12/2yr

Nebraska	(402) 471-2117 www.dhhs.ne.gov	Massage Therapist/License	1,000 hours	NCETMB, NCETMB, ACE or MBLEx	\$110/2yr	24/2yr
Nevada	(775) 687-9955 www.massagetherapy.nv.gov	Massage Therapist/License	500 hours	NCETMB or MBLEx	\$150/yr	12/yr
New Hampshire	(603) 271-9254 www.dhhs.nh.gov/oos/blc/massage	Massage Therapist/License	750 hours	NCETMB or MBLEx	\$100/2yr	12/2yr
New Jersey	(973) 504-6520 www.njconsumeraffairs.gov/massage	Massage Therapist/License	500 hours or written exam	NCETMB, MBLEx or NCCAOM	\$120/2yr	20/2yr
New Mexico	(505) 476-4870 www.rld.state.nm.us	Massage Therapist/License	650 hours	NCETMB or MBLEx	\$125/2yr	16/2yr
New York	(518) 474-3817, ext. 150 www.op.nysed.gov/prof/mt	Massage Therapist/License	800 hours + 5 years' experience 1,000 hours + 2-4 years' experience 1,000 hours + no experience	NCETMB NCETMB State Exam	\$103/3yr	36/3yr
North Carolina	(919) 546-0050 www.bmbt.org	Massage and Bodywork Therapist/License	500 hours	ABTE, NCETMB, NCETM or MBLEx	\$100/2yr	24/2yr
North Dakota	(701) 872-4895 www.ndboardofmassage.com	Massage Therapist/License	750 hours	NCETMB or MBLEx	\$100/yr	32/2yr
Ohio	(614) 466-3934 www.med.ohio.gov	Massage Therapist/License	750 hours	MBLEx	\$100/2yr	0
Oregon	(503) 365-8657 www.oregon.gov/obmt	Massage Therapist/License	500 hours	NCETM, NCETMB or MBLEx, CESI and State Exams	\$150/2yr	25/2yr
Pennsylvania	(717) 783-7155 www.portal.state.pa.us/portal/server.pt/community/licensing/12483	Massage Therapist/License	600 hours	NCETMB, NCETM or MBLEx	\$75/2yr	24/2yr
Rhode Island	(401) 222-2828 www.health.ri.gov	Massage Therapist/License	500 hours	NCETMB, NCETM or MBLEx	\$65/yr	0
South Carolina	(803) 896-4588 http://llonline.com/pol/massagetherapy	Massage/Bodywork Therapist/License	500 hours	NCETMB or MBLEx	\$75/2yr	12/2yr
South Dakota	(605) 224-1721 http://doh.sd.gov/boards/massage	Massage Therapist/License	500 hours	AMMA, NCETMB MBLEx or NCETM	\$45/yr	8/2yr
Tennessee	(615) 253-2111 www.health.state.tn.us/boards/massage	Massage Therapist/License	500 hours	NCETMB or MBLEx	\$185/2yr	25/2yr
Texas	(512) 834-6616 www.dshs.state.tx.us/massage	Massage Therapist/License	500 hours	NCETMB or MBLEx	\$106/2yr	12/2yr
Utah	(801) 530-6628 www.dopl.utah.gov	Massage Therapist/License Massage Therapist Apprentice/License	600 hours 1,000-hour apprenticeship	NCETM, NCETMB or MBLEx and State Exam	\$52/2yr	0
Virginia	(804) 367-4515 www.dhp.virginia.gov	Massage Therapist/Certification	500 hours	NCETMB, NCETM or MBLEx	\$95/2yr	24/2yr
Washington	(360) 236-4700 www.doh.wa.gov	Massage Practitioner/License	500 hours	NCETMB or MBLEx	\$65/yr	24/2yr
Washington, D.C.	(877) 672-2174 www.hpla.doh.dc.gov	Massage Therapist /License	500 hours	NCETMB or exam certified by NCCA and approved by the board	\$177/2yr	12/2yr
West Virginia	(304) 558-1060 www.wvmessage.org	Massage Therapist/License	500 hours	NCETMB, NCETM or MBLEx	\$200/2yr	24/2yr
Wisconsin	(608) 266-2112 http://dsps.wi.gov	Massage Therapist or Bodywork Therapist/License	600 hours	NCETMB, NCETM, NCCAOM, MBLEx or State Law Exam	\$82/2yr	24/2yr
British Columbia	(604) 736-3404 cmtbc.bc.ca	Massage Therapist/Registration	Competency based	Registration Examination	CAN \$400/yr	24/2yr
Newfoundland & Labrador	(709) 739-7181 www.nlmtd.ca	Massage Therapist/Registration	2,200 hours	CMTNL Exam	CAN \$400/yr	30/3yr
Nova Scotia	(902) 429-2190 www.mtans.ca	Massage Therapist/Registration	2,200 hours	N/A	CAN \$400/yr	20/2yr
Ontario	(416) 489-2626 www.cmto.com	Massage Therapist/Registration	18 months to 2 years full time	OSCE and MSQ	CAN \$571/yr	30/3yr

3/8/2015

CenturyLink Webmail

#2
SB 2085
3-9-15

CenturyLink Webmail

hands4u@q.com

± Font Size ±

From : CenturyLink Customer <hands4u@q.com>

Sun, Mar 08, 2015 10:30 PM

Subject : <No Subject>

To : gail hovden <hands4u@q.com>

Good Morning Chairman Keiser and committee members,

My name is Gail Hovden and I have been a self-employed LMT in Bismarck for 25 years. I am not in favor of SB 2085. There is another bill, SB2294 coming your way that myself and other LMT's have put together very similar to SB2085. SB 2294 has passed the Senate with changes they felt nessesary and hopefully you will consider SB2294 before you come to any desisions on SB 2085. Thank you Gail Hovden

#3
SB2085
3-9-15

43-25-08.1 Criminal History records check

The board shall require any applicant under this chapter to submit to a statewide and nationwide criminal history record check. The board may require a licensee under this chapter to submit to a statewide and nationwide criminal history record check if the board deems necessary. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a criminal history check are the responsibility of the applicant or licensee.

SB2085 AND SB2294
COMMON AMENDMENTS - AMEND SB2085

March 24, 2015

1

ISSUE	SB2085	SB2294
CRIMINAL HISTORY CHECKS	Page 2, lines 9-15 Amended	Page 3, lines 8-12
CONTINUING ED CREDITS	Page 2, line 23 Reduce 32 to 24	Page 3, Line 21 Reduce 32 to 24
3 HOURS OF ETHICS Amend - required for 1 st year LMT - Every 6 years for experienced LMT	Page 2, line 24	Page 3, line 22
9 CEU's HOURS BY REMOTE	Page 2, line 26	Page 3, line 24
INSERT SHALL, STRIKE THEIR From SB2294	INCLUDE-Page 2, line 29	Page 3, line 27
BASICALLY THE SAME Page 4 lines 1-14 Section 4, 3b	Page 3, lines 1-15	Page 3, lines 30, 31
SAME Section 4 Sub-Sections 4, 5, 6	Page 3, lines 16-28	Page 4, lines 15-27
INCREASE PENALTY \$100 TO \$200	Page 4, lines 25, 26 Includes Paragraphs 1-4	Page 4, lines 30, 31 Only paragraph 2
CLEAN UP Compensation	Page 5, lines 4-8 Replace with SB2294	Page 5, lines 9-13
SECTION 3 Board Powers	Insert SB2294, Page 2, line 8	Page 2, lines 27-31 Page 3, lines 1-7
RECIPROCITY	Page 5, lines 11-20 Replace with SB2294	Page 5, lines 16-25
BOARD OF MESSAGE	Page 1, line 17 - after message enter "earning at least 75% of their income as a practicing licensed massage therapist"	
<i>NON-VOTING</i> EX-OFFICIO MEMBER	Member of Massage Therapy Education Community	

1
3/25/15

Rep. Sukut

Introduced by

Industry, Business and Labor Committee

(At the request of the North Dakota Board of Massage)

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and
2 section 43-25-08.1 of the North Dakota Century Code, relating to criminal history record checks
3 for massage therapists; and to amend and reenact sections 43-25-05, 43-25-05.1, 43-25-06,
4 43-25-09, 43-25-10, 43-25-14, and 43-25-18 of the North Dakota Century Code, relating to
5 massage therapist licensure.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota
8 Century Code is created and enacted as follows:

9 The North Dakota board of massage for applicants, licensees, or investigations
10 under chapter 43-25, ~~except that criminal history checks need not be made~~
11 unless required by the board.

12 **SECTION 2. AMENDMENT.** Section 43-25-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-25-05. Board of massage - Terms.**

15 1. The governor shall appoint a board of massage, to consist of ~~five~~six members.

16 a. Three of the members of the board must be massage therapists who are licensed
17 in this state and actively annually work at least five hundred hours practicing
18 massage in this state for at least the previous three years. ~~The~~These members
19 must be appointed for terms of three years, staggered so that the term of one
20 member expires each year.

21 b. Two ~~additional~~of the members of the board, who may not be massage therapists
22 or immediate family members of a massage therapist, nor have a direct and
23 substantial financial interest in massage therapy. must be appointed as consumer

1 members. These members must be appointed for two-year terms, staggered so
2 that the term of one member expires each year.

3 c. One of the members of the board must be an instructor at a school of massage
4 that meets the standards set by the board. This member must be appointed for a
5 term of three years and is a nonvoting member of the board.

6 d. Each member of the board holds office until that member's successor is
7 appointed and qualified. Any member appointed to a term beginning after
8 June 30, 2013, may only serve for a total of six consecutive years, after which
9 that member may not be reappointed unless a period of two years has passed
10 since that member last served on the board.

11 2. Within one month after appointment of a new member, the board shall meet at some
12 convenient place within the state and shall annually elect a president, vice president,
13 and secretary-treasurer. The secretary-treasurer must be bonded in the sum of one
14 thousand dollars for the faithful discharge of the secretary-treasurer's duties.

15 **SECTION 3. AMENDMENT.** Section 43-25-05.1 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-25-05.1. Powers and duties of the board.**

18 The board has the following powers and duties:

- 19 1. The board may adopt and enforce rules as necessary to implement this chapter.
- 20 2. The board ~~may~~ periodically shall inspect or cause to be inspected all massage
21 establishments. The board and ~~its~~the board's agents ~~are authorized to~~may enter and
22 inspect any massage establishment at any time during which the establishment is
23 open for the transaction of business.
- 24 3. The secretary-treasurer ~~may~~shall prepare and submit to the governor a biennial report
25 detailing income and expenses and a list of licensed massage therapists.
- 26 4. The board may hire office personnel deemed necessary by ~~it~~the board for carrying on
27 ~~its~~the board's official duties and shall set the compensation to be paid to the
28 personnel.

29 **SECTION 4. AMENDMENT.** Section 43-25-06 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-25-06. Removal of members of board of massage - Officers of the board.**

2 The governor may remove from office ~~members~~a member of the board for failure to
3 maintain the qualifications for appointment, for neglect of duties as required by this chapter ~~or,~~
4 for malfeasance in office and incompetency, or for unprofessional conduct. The governor may
5 fill any vacancy caused by removal of any member of the board, on the member's resignation or
6 death.

7 **SECTION 5.** Section 43-25-08.1 of the North Dakota Century Code is created and enacted
8 as follows:

9 **43-25-08.1. Criminal history record checks.**

10 The board ~~may shall~~ require ~~any an~~ applicant ~~or licensee~~ under this chapter to submit to a
11 statewide and nationwide criminal history record check. The board may require a licensee under
12 this chapter to submit to a statewide and nationwide criminal history record check. The
13 nationwide criminal history record check must be conducted in the manner provided by section
14 12-60-24. All costs associated with obtaining a background check are the responsibility of the
15 applicant or licensee.

16 **SECTION 6. AMENDMENT.** Section 43-25-09 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-25-09. License - Display - Renewal - Renewal fee.**

- 19 1. Each license must be conspicuously displayed at the place of practice.
- 20 2. On or before January first of each year, each licensed massage therapist shall pay to
21 the secretary-treasurer of the board a renewal fee of one hundred dollars or a lesser
22 amount established by the board.
- 23 3. Continuing education of at least ~~thirty-two~~twenty-four continuing education hours, or
24 equivalent college credits, including at least three hours of ethics earned over the
25 course of six years, submitted every two years is a further requirement for renewal of
26 the license. The board may accept continuing education attained by remote means.
27 No more than ~~twelve~~nine hours of a licensee's renewal hours may be by remote
28 means. To qualify as continuing education, the remote education must be
29 board-approved for content and suitability.

- 1 a. Odd-numbered licensed individuals shall report their continuing education in
2 odd-numbered years and even-numbered licensed individuals shall report their
3 continuing education in even-numbered years, based on the calendar year.
- 4 b. ~~This subdivision applies for the licensed individuals during their initial licensure~~
5 ~~period. Individuals licensed on or before May thirty-first of their initial year, who~~
6 ~~would normally are not required to report hours of continuing education, based on~~
7 ~~their license number being odd or even, would need to report at least sixteen~~
8 ~~hours. Those not required to submit continuing education that initial January first~~
9 ~~would report at least twenty-four hours by the following January first. Individuals~~
10 ~~licensed after May thirty-first of their initial year, who would normally report hours~~
11 ~~of continuing education, based on their license number being odd or even would~~
12 ~~not be required to report that cycle, but would report at least forty-eight hours for~~
13 ~~the next cycle. Those not required to submit continuing education hours that~~
14 ~~initial January first would report at least sixteen hours by the following January~~
15 ~~first. Thereafter, initial the licensees would follow the normal renewal reporting~~
16 ~~eye shall report continuing education pursuant to subdivision a.~~
- 17 c. The board may grant an individual waiver based on health issues or other good
18 cause deemed sufficient by the board.
- 19 4. If the board reasonably believes a massage therapist or applicant ~~is in~~ has a physical
20 or mental condition jeopardizing the health of those who seek relief from the individual,
21 the board may require the individual to have a physical an appropriate examination by
22 a competent medical qualified examiner approved by the board. If the individual has
23 had or has any communicable disease sufficient to disqualify the applicant to practice
24 massage in the state, the board shall deny a license until the individual furnishes due
25 proof of being physically and mentally competent and sound.
- 26 5. A holder of an expired license may within one year from the date of its expiration have
27 the license renewed upon payment of the required renewal fee. The board may
28 require production of a new certificate of physical examination and evidence of any
29 required continued educational hours being completed.
- 30 6. All licenseholders must be designated as licensed massage therapists and may not
31 use any title or abbreviation without the designation "massage therapist".

1 **SECTION 7. AMENDMENT.** Section 43-25-10 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-25-10. Disciplinary actions - Complaints.**

- 4 1. The license of a massage therapist may be denied, revoked, suspended, or placed on
5 probation for any of the following grounds:
- 6 a. The licensee is guilty of fraud in the practice of massage or fraud or deceit in
7 admission to the practice of massage.
 - 8 b. The licensee has been convicted of an offense determined by the board to have
9 a direct bearing upon a person's ability to serve the public as a massage
10 therapist, or, following conviction of any offense, the person is not sufficiently
11 rehabilitated under section 12.1-33-02.1. The conviction of an offense includes
12 conviction in any jurisdiction in the United States of any offense, which if
13 committed within this state would constitute an offense under this state's laws.
 - 14 c. The licensee is engaged in the practice of massage under a false or assumed
15 name, or is impersonating another practitioner of a like or different name.
 - 16 d. The licensee is addicted to the habitual use of intoxicating liquors, or other legal
17 or illegal drugs, to the extent the licensee is compromised or impaired from
18 performing the professional duties of a massage therapist or is under the
19 influence while assessing, treating, or seeing a client.
 - 20 e. The licensee is guilty of untrue, fraudulent, misleading, or deceptive advertising,
21 the licensee prescribes medicines, drugs, or the licensee infringes on any other
22 licensed profession.
 - 23 f. The licensee is guilty of gross negligence in the practice of massage, or is guilty
24 of employing, allowing, or permitting any unlicensed person to perform massage
25 in the licensee's establishment.
 - 26 g. The licensee has violated this chapter or any rule adopted by the board.
- 27 2. A licensee who violates this chapter or any rule adopted by the board may be
28 assessed a civil penalty of up to ~~one~~two hundred dollars.
- 29 3. A complaint may be submitted to the board by any person or on its own motion. A
30 complaint ~~may~~must be signed by the complainant. The president may initiate an
31 investigation of the complaint and report to the board.

1 4. Any hearing regarding a disciplinary action or a denial of a license must be held
2 pursuant to chapter 28-32.

3 **SECTION 8. AMENDMENT.** Section 43-25-14 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-25-14. Compensation of board members - Clerks.**

6 The board members ~~shall~~are entitled to receive compensation for an in-person meeting in
7 an amount to be established by rule not to exceed one hundred dollars per day or prorated for
8 partial days the member is actually engaged in the performance of other meetings and official
9 duties and payment for mileage and travel expenses as provided in sections 44-08-04 and
10 54-06-09.

11 **SECTION 9. AMENDMENT.** Section 43-25-18 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **43-25-18. Reciprocity.**

14 1. Any ~~person~~individual who has been duly licensed and is in good standing in another
15 state to practice massage in a state that meets required educational hours and
16 requirements in this state, and who has been lawfully and continuously engaged in
17 licensed practice for two years or more immediately before filing of an application to
18 practice in this state, and who submits to the board a duly attested certificate from the
19 examining board of the state in which ~~registered~~licensed, certifying to the fact of
20 ~~registration~~licensure and being ~~a person~~ of good moral character and of professional
21 attainments, may upon paying a fee of one hundred fifty dollars or a lesser fee set by
22 the board be granted a license to practice in this state without being required to take
23 an examination.

24 2. An applicant for licensure by reciprocity who has been duly licensed and is in good
25 standing to practice massage in a state with substantially similar licensure standards
26 as determined by the board and who has been lawfully and continuously engaged in
27 licensed practice for five years or more immediately before filing of an application to
28 practice in this state, may be granted a license by the board without being required to
29 take an examination if the applicant otherwise meets all of the requirements of
30 subsection 1.

2
3/25/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2085

- Page 1, line 3, after the first comma insert "43-25-05.1, 43-25-06,"
- Page 1, line 10, remove "except that criminal history checks need not be made"
- Page 1, line 11, remove "unless required by the board"
- Page 1, after line 14 insert "1."
- Page 1, line 15, overstrike "five" and insert immediately thereafter "six"
- Page 1, line 15, after the period insert "a."
- Page 1, line 16, replace "actively" with "annually work at least five hundred hours"
- Page 1, line 17, overstrike "The" and insert immediately thereafter "These"
- Page 1, line 18, after "for" insert "terms of"
- Page 1, line 18, after the period insert "b."
- Page 1, line 19, overstrike "additional" and insert immediately thereafter "of the"
- Page 1, line 19, after the first "members" insert "of the board"
- Page 1, line 21, after "members" insert ". These members must be appointed"
- Page 1, line 22, after the period insert "c. One of the members of the board must be an instructor at a school of massage that meets the standards set by the board. This member must be appointed for a term of three years and is a nonvoting member of the board."

d."

Page 2, after line 2 insert "2."

Page 2, after line 6, insert:

"SECTION 3. AMENDMENT. Section 43-25-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-25-05.1. Powers and duties of the board.

The board has the following powers and duties:

1. The board may adopt and enforce rules as necessary to implement this chapter.
2. The board ~~may~~ periodically shall inspect or cause to be inspected all massage establishments. The board and ~~its~~ the board's agents ~~are authorized to~~ may enter and inspect any massage establishment at any time during which the establishment is open for the transaction of business.

3. The secretary-treasurer ~~may~~shall prepare and submit to the governor a biennial report detailing income and expenses and a list of licensed massage therapists.
4. The board may hire office personnel deemed necessary by ~~it~~the board for carrying on ~~its~~the board's official duties and shall set the compensation to be paid to the personnel.

SECTION 4. AMENDMENT. Section 43-25-06 of the North Dakota Century Code is amended and reenacted as follows:

43-25-06. Removal of members of board of massage - Officers of the board.

The governor may remove from office ~~members~~a member of the board for failure to maintain the qualifications for appointment, for neglect of duties as required by this chapter ~~or~~, for malfeasance in office and incompetency, or for unprofessional conduct. The governor may fill any vacancy caused by removal of any member of the board, on the member's resignation or death."

Page 2, line 10, replace "may" with "shall"

Page 2, line 10, replace "any" with "an"

Page 2, line 10, remove "or licensee"

Page 2, line 11, after the underscored period insert "The board may require a licensee under this chapter to submit to a statewide and nationwide criminal history record check."

Page 2, line 22, after "ethics" insert "earned over the course of six years"

Page 2, line 27, after "individuals" insert "shall"

Page 2, line 27, overstrike "their"

Page 2, line 28, after "individuals" insert "shall"

Page 2, line 28, overstrike "their"

Page 5, line 2, overstrike "shall" and insert immediately thereafter "are entitled to"

Page 5, line 9, overstrike "person" and insert immediately thereafter "individual"

Page 5, line 15, overstrike "a person"

Renumber accordingly

SB2085

3

Rep. Su Kat
3/25/15

Section 2. Amendment for 43-25-05. Board of Massage

b. Two ~~additional~~ of the members of the board must be appointed as consumer members. A consumer member may not be or have been a massage therapists or immediate family members of a massage therapist, be or have ever been and owner or affiliated with any massage school, be or have ever been a member of any other health care licensing board or commission, have a fiduciary obligation to a facility rendering health care services, have a financial interest in the rendering of health services, nor have a direct and substantial financial interest in massage therapy. These members must be appointed for two-year terms, staggered so that the term of one member expires each year.