

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2294

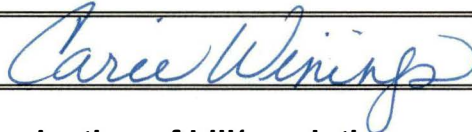
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Missouri River Room, State Capitol

SB 2294
2/13/2015
Job # 23860

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact subdivision nn of subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks; to amend and reenact sections 43-25-05, 43-25-05.1, and 43-25-09, subsections 2 and 3 of section 43-25-10, section 43-25-14, and subsection 1 of section 43-25-18 of the North Dakota Century Code, relating to the governance of the board of massage and the regulation of massage therapists; to provide a penalty; to provide for application; and to declare an emergency.

Minutes:

Attachments 1 - 10

Chairman Dever: Opened the hearing on SB 2294.

Representative Meier, District 32: Testified to introduce the bill and in support of the bill. There are several others to testify on the bill and I have spoken with them about their testimony and I believe you will get a good understanding of what the bill is about.

(4:35)Diane Aull, Massage Therapist: See Attachment #1 for testimony in support of the bill and explanation of the bill.

(17:35)Chairman Dever: Regarding continuing education, how do the requirements in North Dakota compare to other states?

Diane Aull: We require more continuing education by far than any other state. The next highest is 24 hours of CE every two years and we require 32 hours.

Chairman Dever: Are there adequate opportunities to obtain the necessary CEU's?

Diane Aull: There are a lot of opportunities. It is an expensive process though. Because our continuing education programs are set up for most states, which require about 10 to 12 hours per years, we have to go to multiple courses or go to the convention that would provide the full 16 hours per year. The continuing education is redundant really in a lot of cases. It gets to a point over time where you are really not learning anything new and you are starting to learn things that are not related to your field.

Senator Nelson: On the appointment of people to the board, sometimes inbreeding happens because the board kind of finds their buddies and recommends them. Do people from your profession actually apply to the Governor like other boards do or is he just picking from a small group?

Diane Aull: It generally has been a small pool in the past because the information has not been going out that there is a vacancy coming up or that there are opportunities to serve. There has not been a lot of communication between the board and the massage therapists about that type of thing.

Chairman Dever: Do I understand that the make-up of the board involves 2 practicing massage therapists, 1 teaching massage therapist, 1 public member, and 1 chiropractor?

Diane Aull: The chiropractor and the other person are both public members. We have 2 consumer members and 3 massage therapist, but currently one of the massage therapist is not even a practicing massage therapist and it has been that way for quite some time.

Chairman Dever: Do I also understand that one of the consumer members is the President and the chiropractor is the Vice President and the school therapist is the Secretary/Treasurer?

Diane Aull: The Secretary/Treasurer is the chiropractor and the President is the other consumer member and the Vice President is the teacher.

Senator Nelson: Who elects the officers?

Diane Aull: They are elected by the board so when they vote it is generally a 3 to 2 vote.

Senator Poolman: We had SB 2385 in Industry, Business, and Labor and we already passed it through the Senate. I am confused why we are here with a separate bill and why there was no attempt to have this conversation in the hearing where the initial bill came through.

Diane Aull: We had brought all of these issues before the board. There were committee meetings prior to the board deciding what bill to submit and all of these items were dismissed by the board members who did not like the changes and so that is why this is before you. The reason for the redundancy has to do with the bill drafting. It was drafted by a temporary guy who was just starting out.

Senator Poolman: Are you asking us to referee inter-board problems?

Diane Aull: We have done everything that we can think of to deal with this over the past several years. As I sat at a board meeting recently when we were questioned about whether we should testify or not, we have talked to people in different parts of the state government including the Governor's office where they make the appointments and they told us that they make the appointments depending on how the law is written and that it was perhaps an issue that the legislature might look at.

Chairman Dever: That might be the genesis of the rumor that the Governor's office asked for the bill.

Diane Aull: They did not ask for the bill, but they said they could not do anything because they are bound by how the law was written.

Senator Marcellais: How much are the background checks?

Diane Aull: I think it is \$47.50. That is born by the applicant for the license and it would just help us to make sure that we have got people who should be working in one to one settings with people.

(24:10) Gail Hovden, massage therapist: See Attachment #2 for testimony in support of the bill.

(33:25) Senator Flakoll: What are the costs of the CEU's?

Gail Hovden: It depends on the location of them. If you can stay in North Dakota it probably will be a little more reasonable. Some private entities are \$350 on up. If you belong to a certain organization you can get them a little at a discount but you are still paying the member fee.

Senator Flakoll: How many CEU's is that for?

Gail Hovden: That is for just sections of them. About 16 hours a year.

(34:45) Pat Berg, Member of the North Dakota State Board of Massage: See Attachment #3 for testimony in support of the bill against the board's standing on this bill.

(40:40) Senator Cook: I understand now that there was another bill that passed the Senate; did you or Diane oppose that bill when they had that hearing?

Pat Berg: No.

Chairman Dever: Were you opposed to that bill or would you prefer further changes than were involved in that bill?

Pat Berg: We are adding to that bill.

Senator Poolman: I am wondering why you would not have come to that hearing to amend that bill?

Pat Berg: That bill was submitted by the board and they deleted the changes that we are now working on today.

Senator Poolman: Then when it had a hearing, why didn't any of these people come to that hearing to offer amendments to that bill if you noticed that the pieces you wanted were not in there?

Pat Berg: We were there representing the stance of the board and that is what they wanted proposed.

(42:50) Steve Olsen, Massage Therapist: See Attachment #4 for testimony in support of the bill.

(57:30) Allen Galster, Massage Therapist: Testified in support of the bill. I have been doing massage therapy for over 25 years. The CEU course requirements are excessive and often times they do not pertain to our profession. The board does have a tendency to buddy up in that board position and they put things on a therapist, who is highly qualified, to go to these CEU courses, some of which we cannot even practice or they don't pertain. In the 25 years I have been doing massage, there is not one thing I have changed from my training at the Humanity Center at Allied Institute of Health in Florida. I still use the techniques that I was trained to do. These are put on us to burden us and we are treated as though we are not qualified when we were given that license to work. Those that might be found to be practicing incorrectly maybe should be made to get additional credits of CEU's. I have been waiting for these changes to be done for a long time.

(1:01:15) Tilman Jones, Massage Therapist: See Attachment #5 for Testimony in opposition to the bill.

(1:04:10) Chairman Dever: Is your only issue with the bill the CEU's?

Tilman Jones: Yes. The rest of the bill appeared to be good common sense to help our profession grow. I strongly agree that you should throw the baby out with the bath water if the wording is left in that bill to take away the continued education after 15 years as it is stated.

(1:05:10) John Simmons, Chairman, Board of Massage Therapists: See Attachment #6 for testimony in opposition to the bill.

(1:16:00) Senator Cook: You talked about injuries. How many consumer reports of injuries do you get?

John Simmons: Several each year. A half a dozen or so and it can be anything from bruising to muscle strain. It could be joint issues.

Senator Cook: What do you do with the reports?

John Simmons: When we get a report of an injury or some kind of an action that needs to be taken, we discuss it as a board, we consult with our council to determine if any enforcement action needs to be taken, and we make sure that we stay within the bounds of the law. We have done everything from requiring mental health checks to continued training, ethics courses, and in some cases we have had to use board funds to go after massage therapists that have flouted their responsibility to make things right in terms of going into legal action.

Senator Cook: Do you keep a paper trail of all this and it is open record?

John Simmons: All of it is open record.

Senator Cook: I heard you say that renewal fees are \$100. You have 726 licensed massage therapists in the state. Is that your only source of revenue?

John Simmons: Yes. New massage therapists who are applying pay \$150 and there is a small source of revenue from late fees and those are \$50. If an entity would like to be in contact with the massage therapists in the state, they can purchase a mailing list and that is \$50.

Senator Cook: Do you have an annual conference? Where do these therapists get their continuing education?

John Simmons: We do not regulate continuing education and we do not provide it. It is up to the open market to provide that. Those are third parties from other states and providers here that provide education. Nationally people come in and do conferences. We only approve continuing education. They submit their syllabus and it is reviewed and approved meeting the criteria for continuing education. We do not charge or generate revenue on continuing education at all.

Senator Davison: The first night that you went to a board meeting did you know any of the board members?

John Simmons: I did not.

Senator Davison: How did you come to decide to get on the board?

John Simmons: I moved to North Dakota that year and I wanted to be involved in the community and local government and I was told about the opportunity to serve on boards to see how local government worked. So, I filled out the application and the information that I had to send in and I was appointed.

Senator Davison: So they are open records?

John Simmons: Yes.

Senator Davison: If I go to your website, I will see the detailed minutes of your meetings and some of these discussions?

John Simmons: What you will see is minutes posted. Over the last year we just implemented that. We have had a change in the board website a couple of years ago. All approved continuing education courses are listed there and any set of minutes that you want going back for 15 years you can get from our office in paper form.

Senator Davison: I thought you just told me you did not regulate what was approved for continuing education.

John Simmons: We approve the courses, but we do not write, teach, or charge for them.

Senator Davison: But you regulate them if you have to approve it.

John Simmons: We approve them saying they meet the minimum requirements for continuing education credits.

Senator Davison: So can someone go outside of those classes to get other credits and they have to get it approved by you first?

John Simmons: We prefer that they do that first. They can send it secondarily and most of the time it is going to qualify. We would hate for them to spend the money and have it not count. The list is there as a benefit to the massage therapists.

Senator Davison: Do you have a long term vision of how this board is going to enhance the industry in itself? Is not the mission of the board to try to set a long term collaborative vision for the group of people so that it enhances the industry?

John Simmons: It does not. That is not the purpose of the board. The purpose of the board is consumer protection.

(1:22:10) Senator Flakoll: There seems to be a lot of people that don't like you guys very well. What are you doing to engage some of the members that are dues paying members in some of these decisions to build some collaboration to find out what they care about?

John Simmons: We have quarterly meetings that we post to our website, we send an e mail blast to over 700 LMT's that is inviting them to the meetings, and on average we have 6 massage therapists that come to the meetings. It has been that way for five years. Five years ago we did not even have an e mail list.

Senator Flakoll: You say that consumer protection is on the top of the list, but yet you are on a 60 year inspection cycle. Make me feel good about that.

John Simmons: The inspections are rotating, random inspections, but we reserve the right to go to any place where we have a complaint or a concern. Our law is not mandating a certain number of inspections but it leaves the door open for us to do whatever we need to do. Whether that is get law enforcement involved, inspect, and then the random ones are there as well.

Senator Flakoll: Looking at the numbers on the boards, and I would take a little affront if I was a practicing massage therapist to say that they don't have the best interests of the healthcare, welfare, and safety of the clients over the consumer. Why are you more qualified to have the best interest of the client as the consumer on the board?

John Simmons: I think the consumer member is there as a check and balance for the same reason that this committee does not have a ten person mandate that they be veterans. Having other views out there and other aspects that you can look at is important.

If the state government here was run 90% to 10% one way, it would be very difficult to say that you have fair representation. Because all of our enforcement actions are taken against licensed massage therapists, it makes it very easy for a four person massage therapist run board - it is the same argument either way. If we have people that say the two consumer members are running the board (which I don't agree) and they are getting away with murder; turning it the other way, flipping it to four to one does not get you any better place. I think this kind of even mix is about as close as you can get to have a balanced place.

Senator Marcellais: What is the financial status of the board?

John Simmons: When I joined the board, there was \$17,000 in their checking account. At this point, there is \$114,000. They are in the black and they run in the black every year.

(1:26:22) Yolanda Karas, MPH: Testified in opposition to the bill. In 2011 I became the director of a local massage therapy program at a college. I have worked with the state board, not in a position, but I was one of the six who has continuously shown interest in policy and the board doings. When I became the director I sought out the board for help as to how to create a program that would follow the laws and be the best for the students. During that time I began working on my Masters in Public Health and Disaster Management. When I heard about this, I was concerned. My public health side is very concerned about this bill. (Reads through the bill and notes several points in the bill that concerned with). I think we need to separate the North Dakota State Board of Massage and the professional association, the AMTA. The North Dakota Board of Massage is here to protect the consumers and the public as well as work with the licensed massage therapists. The AMTA is a professional association who is here to offer opportunities for continued education and other things through their organization. The professional board is made up of all massage therapists. The burnout rate for massage therapists is 3 to 5 years and that could be a reason for the decrease in numbers at the board. We have had two or three massage therapy schools. One opened in 2006, which is the one that I ran and we had a high number of students, and that went through 2011. We then had three schools across the state close and that combined with the burnout rate would indicate the reason for lower numbers. (Talked about the board make-up and the need for male representation) I think we need to consider prevention rather than reaction with this. I am extremely concerned about human trafficking. Public safety and ethical violations are my main concern with this. Some of the things the board does do is list the non-licensed and licensed massage therapists on the board and that is valuable for people to be able to access for that information. My main concern is eliminating CEU's after 15 years of practice. I think that once we think that we know it all we are in big trouble.

(1:35:18) Wendy McGinley, LMT and Vice President, North Dakota Board of Massage: See Attachment # 7 for testimony in opposition to the bill.

(1:39:15) Brandi Malarkey, Licensed Massage Therapist: See Attachment #8 for testimony in opposition to the bill.

(1:45:03) Carla Anderson, Licensed Massage Therapist: See Attachment #9 for testimony in opposition to the bill.

(1:50:25) Todd Salwey, North Dakota State Board of Massage Secretary and Consumer Member: See Attachment #10 in opposition to the bill.

Karen Wojohn, Executive Director of the North Dakota State Board of Massage: Testified in opposition to the bill. I am for SB 2085 and that is what they all voted on. I don't think it is right when it doesn't go your way and you do something totally different. If it was not for the two consumers that we have on the board, we would never have had a human trafficking awareness campaign and we have shut some down in the state because of it. I thank them for what they have brought to the board. When they talk about inspections, I do think that it would be an expense to the board to do inspections for everyone but we usually do 40 or more through the year. If we eliminate the requirements of continuing education after 15 years - the field is always changing and it is a healthcare field. SB 2085 already lowers the continuing education from 32 hours to 24 hours.

(1:54:45) Senator Davison: Are you a part time or full time director?

Karen Wojohn: The office is Monday through Friday. There is always someone there.

Chairman Dever: I think you are under contract?

Karen Wojohn: That's right.

Chairman Dever: Closed the hearing on SB 2294.

2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee

Missouri River Room, State Capitol

SB 2294
2/20/2015
Job # 24201

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

Attachments 1

Chairman Dever: Opened the discussion on SB 2294. See Attachment #1 for amendments proposed to the bill. The committee was reminded that there was another bill regarding the massage therapists (SB 2085) that was heard by IBL and was passed on the floor. This bill was at the request of two of the members of the board and one other massage therapist. Their primary point is to change the makeup of the board so that four members of the board would be massage therapists. The board of massage therapy has a long history of not getting along with each other and we hear bills every once in a while. Part of their concern is that the three members that hold office are the non-practicing massage therapists. I think it is typical to have one consumer member, and this one has two and one of them happens to be a chiropractor, and we have turf wars between chiropractors and massage therapists too. The other point of contention was that after 15 years the continuing education requirements go away. That one I could argue either way. I am suggesting that we remove that provision on page 4 so that we would be continuing to subject them to continuing education. One of the points that is not in this bill but is in the other one is a reduction in continuing education from 36 hours to 24 hours. I would leave that in. The amendment also makes the effective date July 1st instead of immediately. I would like to move the bill forward and then the House could get that both bills in the same committee and get them reconciled.

(4:52) Senator Flakoll: Moved Amendments proposed. (Attachment #1)

Senator Cook: Seconded.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Cook: Moved a Do Pass As Amended.

Senator Flakoll: Seconded.

Senator Poolman: I am going to vote no on this because these people came and testified in favor of the other bill and did not say a word about any conflict. I think this is some sort of

passive aggressive inter-board politics and trying to come to the legislature to kick certain people off of the board. That is all that is left of this new bill that is not in the other bill.

Chairman Dever: I understand that. You are on IBL and heard the other bill. I wish that they would have testified there but they did not. That is the nature of the conflict.

Senator Poolman: They did testify in favor of the other bill and said nothing about the conflict.

Senator Marcellais: I agree with Senator Poolman and I would add that I think the Governor has the authority to replace the whole board if he wants to as their terms come up.

Senator Cook: I agree with Senator Poolman and Senator Marcellais. I say the same thing. I think one way or another we should have this bill out of here. We spend two hours of testimony on this nuisance. I think we get this out of here and it be heard at the same time and I would also argue that if it does not happen that this could turn into suggested amendments to SB 2085. The issue is not going away.

Senator Davison: I agree but I support the bill because it shows that we as a committee recognizes that there are some challenges and that they should take some time to listen and think about the groups coming forward and it needs some real scrutiny.

Chairman Dever: This is not the only board that has conflicts and where we say that the Governor should be more careful when they make appointments.

A Roll Call Vote Was Taken: 4 yeas, 3 nays, 0 absent.

Motion Carried.

Senator Dever will carry the bill.

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Title.02000

Adopted by the Government and Veterans
Affairs Committee
February 20, 2015

*2/20/15
JWE*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2294

Page 1, line 6, after the second semicolon insert "to provide an effective date;"

Page 4, remove lines 15 through 17

Page 6, after line 5, insert:

"SECTION 10. EFFECTIVE DATE. This Act becomes effective on July 1, 2015."

Renumber accordingly

Date: 2/20
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2294

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: Attachment # 1

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Flakoll Seconded By Cook

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2294

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
 Other Actions: ☐ Reconsider ☐ _____

Motion Made By Cook Seconded By Flakoll

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais		✓
Vice Chairman Poolman		✓	Senator Nelson		✓
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Dever

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

REPORT OF STANDING COMMITTEE

SB 2294: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2294 was placed on the Sixth order on the calendar.

Page 1, line 6, after the second semicolon insert "to provide an effective date;"

Page 4, remove lines 15 through 17

Page 6, after line 5, insert:

"SECTION 10. EFFECTIVE DATE. This Act becomes effective on July 1, 2015."

Renumber accordingly

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2294

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Peace Garden Room, State Capitol

SB 2294

3/17/2015

25028

☐ Subcommittee

☐ Conference Committee

Donna Whetnam

Explanation or reason for introduction of bill/resolution:

Governance of the board of massage & regulation of massage therapists, provide a penalty, application, and effective date.

Minutes:

Attachments 1-5,5a,6-8.

Chairman Keiser: Opens the hearing on SB 2294.

Senator Dick Dever~District 32: introduced SB 2294. There is two bills involving the board of massage therapy. SB 2085 was heard in your committee on the 9th. This bill was introduced at the request of three massage therapists, two of whom are members of the board. I would encourage you reconcile the two bills and let one of them go and I don't care which one. SB 2294 has one overriding concern and that is the board of massage therapy has two consumer members and it has a member who teaches massage therapy and two members that are practicing massage therapist. The three other members are the president, vice president and secretary/treasurer so the massage therapists feel they are under represented on the board. It is typical for professional boards to have one consumer member and this one has two and I think this is a problem. Everyone likes the reduction of the education credits that they need. We had in the original bill and emergency clause and we left it in but put an effective date of July 1st because that is when there board turns over. The emergency clause failed in the Senate but you still have the effective date of July 15, 2015 and you know if you have an effective date prior to August 1st it needs to have an emergency clause. I think the governor's office if they know that change is there as they appoint members to the board will appoint a massage therapist. The current president of the board is a consumer and his term is expiring and he will be leaving the board by the term limits anyway. There are other provisions that are more detailed and I will let other speak to that. I would like to see both bills come together and that particular provision addressed.

Representative Hanson: I'm not seeing the urgency in the change in representation on the board. Do you have an idea how many other boards are similar and what kind of representation they have on them?

Senator Dever: Most boards have one consumer member generally not two and certainly not a majority.

Representative Hanson: Do the current members of the board feel the consumers on the board hurt them and their industry?

Senator Dever: They are here and I will let them speak to that. Let me mention this is not about personalities but I think there is some merit to the fact massage therapists need to be better represented on their own board.

Chairman Keiser: Why didn't the Senate pull these together?

Senator Dever: They were in different committees.

Chairman Keiser: I would like someone to highlight and compare the differences between the two bills.

Gail Hovden~Represent Self: in support of SB 2294. I have brought along thirty letters of support from other massage therapists practicing in North Dakota. (See Attachment # 1).

13:20

Representative Hanson: Do you know how the current board came to be if it's so far off?

Hovden: There used to be three massage therapists that were the board and as the numbers grew they decided to make the board five and I don't know why they chose two consumers versus Licensed Massage Therapist's.

Representative Hanson: Do you know what year that was?

Hovden: I would have to say at least 12 or 15 years ago.

Representative Hanson: You also stated you thought someone being a massage teacher being on the board was a conflict of interest. Could you elaborate on how that would be a conflict of interest, are they directing members towards themselves or what?

Hovden: When I was serving on this board that is what I felt, when you have a teacher representing a certain school and she is giving teach-out plans, their school is going to be generating money to get those extra hours they need. To come in to our state we need 750 hours. We are the sixth highest in the nation. 28 states have 500 hours. We are difficult to get into anyway and when you are short 250 hours you have to make it up somewhere. Why would this person on the board that is a school teacher get to give these teach-out plans and let them come to their school. What about the other schools are they having options to do that as well? Plus the teacher is getting paid on this board to look at these transcripts.

Representative Hanson: You think it's a fairness issue?

Hovden: Yes.

Representative Hanson: The proposed make-up of this board would result in it spending a little more conservatively, I am confused as to how is in the legislature preview to say how your board is run. I think it is your industry that is making those designations I don't; know if I feel like it should be ours?

Hovden: I don't know how to answer that.

Representative Lefor: Who brought this forward did the massage board approve of this bill?

Hovden: I did with a couple other massage therapists on the massage board. For my experience on the board this is what I have been seeing happening.

Representative Lefor: What is the difference between the two bills?

Hovden: There isn't much there, basically the board's makeup and in the previous bill I had asked if there could be the CEU's discontinued after so many years. That is what they amended. I guess after 25 years I have done so many CEU's the cost of it, they are lowering the CEU's down but cost wise we are wearing out.

Representative Lefor: On page 2, line 30 it says "the board shall periodically inspect". You have 666 therapists, would the board have the labor force to accomplish that. Is that an in person visit to all 666 therapists?

Hovden: Yes, they take turns by doing inspections physically.

Representative Beadle: When you were on the board, you never saw the income or expenditure reports you were just told what it was, I am looking for the statute regarding powers and duties of the board and subsection 3 says a secretary/treasurer may submit a biannual report, it says may in there are indicating that is not being done?

Hovden: I believe that is part of the job of the office administrator?

Representative Beadle: Does the report exist?

Hovden: As far as I know, I never got told what it was, it was taken care of by one person.

Representative Beadle: The Continuing Education Unit requirements you have, what courses do you take and are you presented with options that are available for you to take?

Hovden: When I first started there weren't a lot of options, there wasn't even any massage schools locally, but now in North Dakota you can get access to Continued Education because more massage therapists are teaching CEU's. You can get them but they are costly.

Representative Beadle: Does the board have to approve the CEU classes?

Hovden: The board does approve them but for the last many years I have not seen any get past the board consensus it has been one person going through those.

Representative Beadle: Are there any online vendors or options?

Hovden: There is a limited amount online.

Vice Chairman Sukut: One of the duties of the board is to serve the public. Can you tell me how the current board is not serving the public and how the changes in this bill would correct those problems?

Hovden: I feel with the inspections that haven't been done over the years is not protecting the public. When the board doesn't go and inspect them. When there has been money there to do them. I don't know why they have not been doing them. With a massage therapist they would probably get a little more information on what is going on within the board. It has been secretive and it should all be public.

Vice Chairman Sukut: The expenses and the spending, what does that have to do to protecting the public?

Hovden: They are not doing the inspections.

Vice Chairman Sukut: Are you a current member of the board? Do you have some input to the board as a current massage therapist?

Hovden: No I am not and I have done that in meetings and I've been shut down with that.

Vice Chairman Sukut: Looking at the construction of other boards in this area, when you look at the podiatric board, they have 6 members and 4 are podiatrists have two that are not practicing that profession. A lot of the construction of professional boards in general have two members on them that are not practicing that profession but the professionals still have control of that board. What you are currently proposing is quite different from what is traditionally being done on other boards. They apparently are figuring the input from outside of the profession serves a good purpose. Do you want to comment to that?

Hovden: We have the two public members but we feel we have three. The third person on the board is a teacher and I see her as public person. When I look at the board I see two practicing therapists.

Vice Chairman Sukut: When I look at the description of the board, it says that three of the members are practicing massage therapists. So if you had 3 therapist on there and the other two people one being the educator and the other being a consumer, would that satisfy you? Would that solve the problem?

Hovden: I can't answer that. I just thought that if you had more practicing LMT's would understand better what we have to face with our finances. The cost and expenses that are involved it.

Representative Kasper: Currently the board is made up of three massage therapists and it doesn't say practicing massage therapists. So is a teacher considered a massage therapist because they are licensed? Your proposal is to have four massage therapists who are practicing and one would be from some other area, which would take back the control of the board by the profession that is in the profession, is that where we are heading?

Hovden: Correct.

Representative Kasper: How often does your board meet?

Hovden: Four times a year.

Representative Kasper: How are you notified of the meeting?

Hovden: On the web site or in an email. A tentative meeting is set for May 1st which is not even on the web yet, you can't see it in the minutes and it is not posted right now. They will either send it out a week or two before but why wait to the last minute when you have a month or two in advance of the meeting.

Representative Kasper: What I am getting at is currently, the practices of the board is haphazardly at best, there is no system, you don't see minutes, your notices are coming out late and you have never seen a budget or how the money is spent. Are those correct statements?

Hovden: Some of those are correct, the budget I have seen is a bank statement. We don't get a listing of exactly where the money goes it is just a piece of paper from the bank and you figure it out.

Representative Kasper: How often does the board hold inspections and how many do they hold in a 12 month period of time?

Hovden: We voted for 3 inspections per quadrant, 4 quadrants that would be twelve inspections a year.

Representative Kasper: Are there always new massage therapy techniques to learn or is there basically no new tricks you provide your services with?

Hovden: There are no new basics but they are offering new objects to use in massage.

Representative Kasper: On the ethics of being a massage therapist, does that ever change? It seems to me if you deal with a person's body and doing the massage treatments those ethics are pretty clear on what you should do and shouldn't do and shouldn't change very often, is that a correct statement?

Hovden: Yes

Representative Kasper: Once you have learned your ethical procedures, it is sort of like riding a bicycle you just know you don't have to go back and learn it again, is that correct?

Hovden: Correct and if we continue with ethics every two years, when you think of it if someone is going to do something wrong it is either in them or it isn't.

Representative Kasper: With the every two years ethics, is there a longer period of time that would be adequate and you have to think of new people coming in. For the people that have been licensed in North Dakota for a period of time, if you have been here for 6 years and you would have to do an ethics course every 4-6 years would that be good enough or should it be sooner or longer?

Hovden: Longer and it would still protect the public.

Representative Amerman: SB 2085 under the board size says 3 members of this board must be massage therapists who are licensed in this state and actively practicing massage in this state and it keeps the 2 consumer ones, doesn't SB 2085 say they have to be practicing in this state and doesn't that address your issue as far as a teacher?

Hovden: I don't believe so because she is not practicing.

Representative Amerman: If we pass SB 2085, it would have to be three actively practicing massage therapists. Wouldn't that take care of your concern because she is not actively practicing?

Hovden: It must not have, but there must be someone who can better answer that question too. Oh, but that is in the new language. I am sorry I am not thinking clearly right now.

Chairman Keiser: I think we can remedy the inspection problem.

Pat Berg~Licensed Massage Therapist-On the North Dakota Board of Massage: in support of SB 2294. (See Attachment # 2).

45:20

Representative Louser: How does a board member becomes a president of the board?

Berg: Through elections every year.

Representative Louser: Some boards have a chairman, vice chairman that rotates and the duties of the secretary/treasurer falls on the administrator. Would a revolving chairman solve your issues?

Berg: Yes.

Representative Amerman: The board members are appointed by the Governor. Are there recommendations for the members to the governor?

Berg: Yes. But there is no formal notification of when a position comes open.

Representative Amerman: When a new board member is needed the therapists don't know that?

Berg: The information is not on the website and there is no newsletter.

Representative Amerman: Is there a system for a removal or an appointment or can you approach the governor?

Berg: I don't think so, we can work on it as a board and my first suggestion would be to get it out on the web site.

Representative Beadle: I've read minutes from the board on the website, they reference an external audit that was done. In June someone proposed doing an additional audit and the board decided to wait for another audit in June of 2015, can you answer to the status of the audit that was being done. It looks like it was regarding the practices of the financials of the board?

Berg: It has not been started.

Representative Beadle: Do you know when the last audit was done?

Berg: I have been on the board since July 2014. I believe it's a two year cycle.

Chairman Keiser: You are currently on the board and do you feel your profession is not in control of the majority?

Berg: Yes.

Chairman Keiser: Can you share with us why you have that feeling.

Berg: A lack of information number one and I have been on the board for over a half a year and I could not answer any questions on the budget.

Chairman Keiser: Have you requested it.

Berg: Yes.

Representative Laning: Most of the boards have a limit of how many terms they can serve before they have to be replaced.

Vice Chairman Sukut: Do you hold a position on the board and does the board have a treasurer?

Berg: No, I don't hold a position and yes it has a treasurer.

Vice Chairman Sukut: Some of the responsibilities would fall on the treasurer to provide information if you ask for it.

Berg: The treasurer and the office administrator.

Dianne Aull~Officer for the AMTA North Dakota: in support of SB 2294(See Attachment # 3).

1:00:58

Representative Becker: 35 % of the online courses for CEU's are " energy"? What do you mean by energy? Is that like Chi?

Aull: Like Reiki or Diamond Dousing, cleansing the energy of your workspace. I guess that might be important for safety.

Steve Olson~Resident of Fargo North Dakota: in support of SB 2294 (See Attachment # 4).

1:11:50

Representative M Nelson: We have boards all over the state and awhile back there were efforts made to kind of consolidate things. The board is appointed by the Governor so to see the board members and when the board expires you go the website for the Governor's office. I don't know that members are aware that you go to the Secretary of State's web site for the meetings and you can subscribe for email alerts for all those boards.

Olson: I knew that the Secretary of State had some impact on boards. The board should put that on the web site. The information maybe is available but it is not presented in a good spot.

Representative Kasper: I want to as a practical question, my wife loves massages. How long would it take to get someone like me who has never had a massage into shape?

Olson: After one massage you would feel better. It doesn't solve all your problems.

Representative Hanson: I had a bill in earlier this session to try to make the governors website list the minutes and when the committee terms were expiring but the board associations came in and stopped it. We do try to have more transparency.

Olson: This is the issue, there is just no information being given out.

Chairman Keiser: Anyone else here to testify in support of SB 2294, any opposition to 2294?

Wendy McGinley~Vice President of the North Dakota Board of Massage: in opposition to SB 2294. (See Attachment # 5 & 5 A).

1:24:50

Representative Louser: When you asked the question about actively practicing, I am going to reference the board we have been talking about. The language for that board says "actively practicing", because this is a consumer protection related board would you be comfortable with accepting the definition of "actively practicing" meaning someone who is performing massage with the public for income?

McGinley: If that is what it is. Other boards do say actively practicing for income.

Representative Kasper: How often do you think a massage therapist location should be inspected?

McGinley: Every five years or so if they do an annual self-report.

Representative Kasper: On the bottom of page two, when you reference the word periodically, it is already in statute it is not something new, when you question periodically couldn't the board put in the rules what you consider periodically and if you haven't why not?

McGinley: Yes, we do inspections every year. Yes we could do that. It is a fairly new board.

Representative Kasper: It appears to me that you testify that two members of the board would have to be gone, do you not believe a professional board should have the majority of the board members be people who are in the practice that is regulated.

McGinley: The way it was written prior to and when I applied for the position, as long as you were licensed.

Representative Kasper: I am asking your opinion on a board that is not made up of a majority of the members that are in the practice of what it is regulating.

McGinley: In my mind and vision I am practicing but I'm not charging.

Representative Hanson: When was the board's makeup created as it is right now with the majority of non-professional members?

McGinley: 2001.

Representative Hanson: Since 2001 and previous to that was the majority of the board professionals?

McGinley: It was three LMT's.

Representative Hanson: There has also been testimony that someone who serves on the board and who is also a massage therapist teacher would have a conflict of interest. You have not directed anyone up to Williston?

McGinley: I have not.

Representative Amerman: SB 2085 was at the request of the board and SB 2294 was put in by Senator Dever by the massage therapists. The biggest problem is about the board make-up. The only difference I can see is the board of massage keeps the three members but it states is actively practicing in the state. This one makes it four members actively practicing massage therapy in the state. Do you support 2085 and don't support 2294 because you don't know what actively means, I am confused?

McGinley: I support SB 2085 over SB 2294 more so with the board composition going to 4 and 1 and losing the consumer member, we are here to protect the public and I feel we should have the consumer member on the board. Some states require a chiropractor to be on the massage board.

Representative Amerman: With either bill it seems you will lose your position.

McGinley: Yes.

Vice Chairman Sukut: If we were to take 2085 and we work with it the way it is but we define "actively practicing" using Representative Louser's definition. What is your reaction to this suggestion because it would eliminate you at this point in time although you would still have the ability to become one of the consumers?

McGinley: No because I am dually licensed.

Vice Chairman Sukut: That would have to be in the other section where we are defining the consumer areas. That would have to be a line item where we would specifically say that one of the consumers could be a massage therapist or a chiropractor. So if we would do that it would give the therapists the majority vote in what is going on and still have some representation from the educational part of massage.

McGinley: This is part of the process, if that is the way it goes. I take the educational part of massage very seriously but if it eliminates me from the board, my question would be then if I would actively practice, if I did a couple a week, could I qualify for the board?

Chairman Keiser: We will get to that, the concept is, if you think of agriculture we define farming, you have to have so many acres or licensure and have a certain percent of you income from the farm. That prevents people like me, living in the city and buying 640 acres and claiming I am a farmer. When we talk about actively practicing here the concept is it means this is your income.

Representative Ruby: If you are not on the board that does not mean you couldn't provide or assist with the continuing education requirements that they might access your expertise as a licensed massage therapist or do you think you would be out of it completely?

McGinley: I am not too sure. I have spoken at the spring conference just to give the board an update on what is going on in North Dakota last year. I was asked to do that again this year and to host a table during the breaks to give them a face to talk to. Would I be doing

that if I wasn't on the board. I don't know if I can represent the board if I'm not on the board.

Jon Simmons~Chair of the North Dakota Board of Massage: in opposition to SB 2294. (See Attachment # 6).

1:45:40

Representative Kasper: We've sat through two hearings, from the perspective besides yourself and from the testimony they have given which has been direct and using examples that concerned them can you explain to me why you say the board is working?

Simmons: It's regrettable that we found ourselves on the last day of the bill deadline filing having two of our board members submit legislation in opposition to the bill that they had voted on with us, debated on and served on the committee on and testified on behalf of that passed in committee. It had a unanimous passing in the Senate. I have been here for 5 years and I have been through 2 ½ of these and I've seen the board push forward with what our goal is and not let the personal preferences of how people would like people to run get in the way. It hasn't made us popular but we are doing what is right.

Representative Kasper: You didn't answer my question, frankly. We have heard about a lack of transparency on budgets, how the minutes are posted and how the money is spent and in one person's perspective the foolishness of spending 1/3 of the budget spent on a marketing campaign that had nothing to do with the helping the massage therapists. Give me some information on those areas.

Simmons: We have consistently and continue to have a third party audit every other year which we submit to the state. We've never had a problem. Our financials are very strong at this point. We had about \$18,000 when I started and there is about \$118,000 now. With regard to the marketing campaign, this was discussed, debated, and voted on with the board. We were trying to draw a distinction between massage therapy industry and human trafficking that sometimes hides out under the guise of massage. We provided access to points of contact for the public to email or call in if they saw anything of concern to them. I do disagree that it had nothing to do with the field because we know some illicit behavior hides out under the guise of legitimate business.

Representative Kasper: Your answer as far as the transparency to your membership is to wait for the audit every two years and you will see how our money is being spent because you are not publishing a monthly minutes which reflect the income and expenses of the board in that month, which if a board is functioning properly would do so the membership is informed.

Simmons: We do have a balance sheet at the quarterly meetings. All of our meetings are open to the public. All of our records are open records. When I first came to the board there was no technology ability for us to post minutes, which there are now is and we have over the last getting that fine-tuned. It has been bumpy. I can take the blame for that but it has nothing to do with the board composition though.

Representative Kasper: The overall the decision we need to decide is in the overall well-being of the board. Again so your answer is we review the budgets quarterly and the board knows it is ok, but I would submit it appears to me that the membership does not.

Simmons: The licensee has full access to that if they want. If we have a request, we could post those things online it is easy enough to do.

Representative Kasper: The fact of the matter is you have failed to do it though.

Representative Louser: I went to the Governor's site and it seems it would be an easy link to post to the other site and it shows your appointment date was September of 2010 and your term ends the end of July this year. How long have you been the president or do you reference it as Chairman?

Simmons: Three years.

Representative Louser: How do you feel about a rotation of those positions instead of an election?

Simmons: It would be fine. I would suggest brand new members to the board would rotate to the end of their term because of the history of cases you would be dealing with.

Representative Beadle: Would it be possible for us to get a copy of the previous audit?

Simmons: Yes, I can get you that.

Representative Beadle: How many licensed therapists were there when you came on to the board?

Simmons: I believe there were 550. It is always a nebulous number based on how many people have renewed their license or are in a suspended status. We don't know if they are totally off of the rolls for a full 1 ½ years it takes to go through a whole renewal cycle.

Representative Beadle: You referenced the fact there was about \$18,000 in the boards account when you came on and there is about \$118,000 so there is about \$100,000 increase. Is that just from the licensees that have come on?

Simmons: No, I came in after they had legislation crafted that increased the licensing fee.

Representative Beadle: What is your typical annual revenue versus expenditures?

Simmons: Approximate income is \$80,000 dollars and expenditures approximately \$60,000.

Representative M Nelson: What in your opinion would be actively practicing?

Simmons: I don't know that I could comment on Wendy's situation, I do know some massage therapists that work once a month. That is out of my scope I would say someone

who is consistently teaching and educating and working hands on would probably meet the barrier, but if the committee decides something else. I would be difficult to vet licensed massage therapists unless we got into auditing tax returns to see where their income was coming from.

Representative M Nelson: I thinking for guidance for the Governor because the bills come up and say these people should be actively practicing and just what does actively practicing mean.

Simmons: We do rely a lot on of these things at the Governor's discretion.

Representative Kasper: Is there a piece of paper or an application that a massage therapist fills out to renew their license or what is the process to renew their license?

Simmons: They go to the web site and pay with a check card or credit card and then they upload their certificates of continued education and then they can print their licenses.

Representative Kasper: Could you not modify your application renewal application with one line asking, how many hours did you practice massage therapy in the last 12 months?

Simmons: Absolutely.

Todd Salwey~Serves on the North Dakota State Board of Massage: in opposition of SB 2294. (See Attachment # 7).

2:00:00

Representative Kasper: Are you familiar with INTUIT? It is a very easy software package where you can provide information in a very easy way. I use it and if I can anyone can. You have heard the testimony here today and how do you react to what you've heard?

Salwey: I am not familiar with INTUIT and I can see their point, but on the other side too they are not stating what they specifically want and in what form.

Representative Kasper: I think they have been very clear with what they want which is changing Continuing Education hours and give them control of the board. The don't feel the board is doing for their profession what they think it should.

Robert Benson~: Licensed Massage Therapist, Physical Therapist and educator from Williston: (See Attachment # 8). I was the original educator on the board. The Governor's office approached me in 2006 to serve on the board, I did not apply. Prior to 2006 I was just voluntarily helping the board look at transcripts from people that were moving into this state without any legal authority to do so and the would ask me my opinion because of my educational background. I served from 2006 to 2012 on the board and there has been a lot of growth on the board. Minutes were kept by the boards head and there were no paper work at all. A lot of the changes have come because of the technology now. If you are going to revamp the board, please look at what the federation has put together as far as a model. As a whole profession around the country we are trying

to get together to the point where we can finally get so that if someone gets licensed in one state is pretty easy to go to another state and be able to practice. We do not want to lower our standards at all we want them to bring their standards up. In Canada you have to have a bachelor's degree to be a massage therapist and they even have master's degrees and now in Maryland you have to have an associate's degree plus 500 hours of massage instruction and now we have our first bachelor degree program in Michigan. So the wave is coming but as an educator I know how hard it is for me to try to fit in the information I would like my massage therapists to know in our 1200 hour program. Even if our law says 750 we do 1200 hours because we want our people to be well prepared and ready to practice when they go out. It is evolving into a health care profession. We do no diagnosis but people are trusting that the massage therapists will cause them no harm.

Representative Beadle: I am looking through existing statute and what you are passing out regarding the continuing education hours nationally. I see a lot of states reference 24 hours every 2 years. It seems to be pretty standard language, are therapists going to one 24 hour intensive course where you are there for a few days and you get it all done at one shot, it seems odd that everyone is pretty standard?

Benson: Generally courses are done on a weekend and typically you can get about 16 hours in. We want to make it 24 hours every 2 years, so it should be fairly easy to get that continuing education.

Representative Beadle: The board would need to approve the continuing education course but it doesn't have that same requirement for a non- online course?

Benson: I don't remember the language, but I know if they want to teach a course in North Dakota they submit their resume and a description of what they will teach and it is reviewed. It isn't reviewed by the whole board but it is reviewed by the office before they are allowed to use it for continuing education.

Chairman Keiser: Anyone else here to testify in opposition to SB 2294? Anyone here to testify in the neutral position to SB 2294? Seeing none. We do have two bills and we are going to put these together into one bill. I am appointing a subcommittee: Vice Chairman Sukut, Representative Amerman, Representative Kasper will be on the subcommittee. They will meet on this and we want you people to have some access to this. Will be heard in the upstairs conference room in the House Chambers that has telecommunications and if you want to be in on the Conference call let our clerk know, we need your email and phone number and we will send you a dial-in number. This is a public and we are very out front you can listen and if we have a question we can go to you for an answer. We know a lot of you are from out of town. We are not reopening this hearing per say. We will send you the information of when we will meet. The one thing I would really suggest that is not really addressed in this bill but in the future, we don't like it when we have the highest standards in the country, generally speaking, that is what we call fence building. We don't want to be the lowest, but we are going to be coming back in the future and saying, if we are the highest, "why"? Be prepared to defend that because it is a way to keep people out in some professions. We don't really like that in a business oriented committee, which we are. Are there any further questions? Seeing none. Closed the hearing on SB 2294.

2015 HOUSE STANDING COMMITTEE MINUTES

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

SB 2294
3/24/2015
25342

☒ Subcommittee

Ellen Litang

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 2294
3/25/2015
Job Number 25426

☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Governance of the board of massage & regulation of massage therapists, provide a penalty, application, and effective date.

Minutes:

Chairman Keiser: Opens the work session on SB 2294

Vice Chairman Sukut: We will merge SB 2294 into SB 2085.

Vice Chairman Sukut: Moved Do Not Pass on SB 2294.

Representative Becker: Seconded the motion.

A Roll Call vote was taken: Yes 12, No 0, Absent 3.

Do Not Pass carries.

Representative Sukut will carry the bill.

Date: Mar 25, 2015Roll Call Vote: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2294

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. Becker

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

Total (Yes) 12 No 0

Absent 3

Floor Assignment Rep. Sukut

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

REPORT OF STANDING COMMITTEE

SB 2294, as reengrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Reengrossed SB 2294 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2294

2/13 #1 pg1
TESTIMONY in support of SB 2294

Chairman Dever and Members of the Committee,

My name is Dianne Aull. I have been a massage therapist since 1998, taught massage therapy as an employee of Williston State College for 5 ½ years, and served as an officer for the North Dakota AMTA chapter for 5 years. Prior to my massage career, I was an educator and later an administrator for statewide and regional adult continuing education entities.

Although I serve on the board of massage, which opposes this bill, I personally support this bill.

Massage therapists are over-regulated in North Dakota and this bill will take real steps to rectify that problem.

The Massage Registration Act was enacted in 1959 creating the North Dakota Board of Massage to protect the health, safety, and welfare of the people of the state. The board was to:

1. Prescribe regulations for the practice of massage
2. Conduct inspections of massage establishments
3. Make available the necessary requirements for licensing massage therapists.

The law was established at the request of a group of massage practitioners. Massage therapists desire and appreciate our law which works to shield our profession from people who would attempt to practice massage therapy without proper training.

There is opposition to this bill from people who represent massage therapy schools and other CEU providers including organizations that provide CEUs. **The Board of Massage is to protect the interests of consumers and not to protect the interests of massage schools.**

North Dakota's Board of Massage is configured in a way that allows non-massage therapists to take control. **The result has been over-regulation of our industry.** This is evidenced by:

- higher licensing requirements than most other states
- greater continuing education requirements for license renewal than **any** other state in the nation
- license fees that are generally charged twice as often are thus are relatively twice as high as most other states.
- a static (or declining) number of LMTs in our state for the last several years, in spite of the growth in our state in general
- a reciprocity policy that is virtually ineffective

SECTION 2 AMENDMENTS

We need better representation of LMTs on the Board of Massage.

- Our board is unusual – few other boards in our state have people outside their profession or industry *controlling* their boards. Attached is a list of boards and their composition.

- As massage therapists, we are trained to know what our job is, and what it is not. It is easy for a massage therapist:
 - to identify people who are not qualified to do massage,
 - to identify violations of our state practice act,
 - and to identify problems in a massage setting.
 - Massage therapists know what our scope of practice is, and
 - have a clear understanding about when a client should be referred to a health care professional. These specific skills make massage therapists uniquely qualified to regulate our own profession.
- LMT board members should be actually *practicing massage therapists* and not simply licensed. LMT board members not engaged in the profession *may not be in touch with current issues* in the profession and *decisions would not carry the weight of importance* to them that they would to a bona fide massage therapist.
- The solution to over-regulation by the board is to return control of the massage therapy board to professional massage therapists who truly represent and understand this profession.

Our board needs more specific criteria for a consumer member

- As I said before, few other boards in our state have people outside their profession or industry *controlling* their boards.
- Our board needs more transparency, accountability, and fiscal responsibility.
 - The present board operates without a budget as it has done for at least the past eight years and probably more.
 - Financial reports are nothing more than a copy of a checking account statement, sometimes for a little as one month. Income and expenses are not reported at meetings or between meetings; at least not to the massage therapists on the board.
 - The board's lack of transparency has been, and continues to be, a recurring theme in complaints we hear from members of the profession.
 - The majority vote is given over to people who do not make their living doing massage therapy and the monies collected and dispersed do not impact them personally.
- Massage therapy is not a medical field. Our scope of practice is quite limited and we are trained to know our limitations are.
Attached is a list of medical professions and another of health care occupations that are *related* but not *medical*.
- Health care workers from medical professions may try to impose regulations on massage therapists based upon their professional lens or biases that go beyond the scope of massage practice. Therefore, if a member of our board *is* affiliated with another health care profession, *that member should also be an actively practicing massage therapist.*
- Massage therapists are also *consumers* of massage therapy services.
- Some other states have massage therapy boards composed of three massage therapists and two consumer members, but underlying that is the fact that in almost all instances, the boards are not

independent as North Dakota's board of massage is, but are rather *found within a state agency*, such as the health department or the department of human services.

Attached is a list with composition of massage boards in other states.

There is excessive influence of massage schools on the board

- Although *our board does not regulate massage schools*, for the past decade one of the LMT positions on our board has been filled by someone who represents schools instead of representing LMTs.
- Where *other* states have a school representative on their board, that board also regulate schools.

Enhanced term limitation language

- With about 720 licensed massage therapists in North Dakota, and an undetermined but large number of consumers, there is no reason for board members to be permitted to serve again unless sufficient time has elapsed.
- The problems this board faces now are related to lack of turnover on the board. A lapse of ten years between returning to the board would help prevent a repeat of this cycle of over-regulation.
- By bringing on new members at least every 8 years, administrative problems would get more notice and new expertise applied for solving problems.

SECTION 4 AMENDMENTS

The amendment to reduce continuing education hours from 32 to 24 hours per biennium will help bring continuing education requirements more in line with accepted industry standards.

- North Dakota presently requires far more continuing education than any other state.
- Excessive continuing education is another example of over-regulation.

It is reasonable to dispense of continuing education requirement after 15 consecutive years.

- Continuing education courses seldom address consumer issues, sanitation, or public safety.
- Continuing education for highly experience massage therapists does not increase public safety.

We would prefer item 3-D in amendment 4 to read:

A massage therapist who has been practicing for compensation and licensed in good standing with no violations for a minimum of fifteen consecutive years qualifies for license renewal with no additional continuing education required.

EXAMPLES OF THE COMPOSITION OF SIMILAR NORTH DAKOTA BOARDS

Profession	Professional members	Public Members
Addiction Counselors	5 Addiction Counselors	2 Laypersons
Athletic Trainers	3 Athletic trainers, 1 MD	1 Public member not affiliated w/ any healthcare field
Architecture	3 Architects	N/A
Audiologist & Speech Pathologist	2 Speech Pathologists, 2 Audiologists, 1 Hearing Aid Dealer, 1 Otolaryngologist	1 Consumer
Barbers	5 Barbers	N/A
Chiropractors	5 Chiropractors	N/A
Cosmetology	3 practitioners	2 Consumers
Dental Examiners	5 Dentist, 1 Dental Hygienist	1 Consumer
Dietetic Practice Board	3 Dieticians, 1 Nutritionist	1 Consumer
Funeral Service Board	3 Funeral Practitioners & 1 State Health Officer	N/A
Education Standards & Practices	5 Teachers, 2 School board members, 2 school administrators, 1 Dean of College of Education	N/A
Integrative Health Care	1 Naturopath, 1 MD or DO, 1 Nurse Practitioner, 1 Pharmacist, 1 Music Therapist	N/A
Nursing	5 RNs, 1 Advanced Practice RN, 2 LPNs	1 Public member
Optometry	5 Optometrists	(7 members altogether)
Occupational Therapists	3 Occupational Therapists, 1 OT assistant	1 Consumer
Pharmacy	5 Pharmacists, 1 Pharmacy Technician	1 Public member not affiliated w/ any healthcare field
Physical Therapy	3 Physical Therapists, 2 MDs	1 Public member not affiliated w/ healthcare
Podiatry	4 Podiatrists, One other MD	1 Public member
Private Investigators and Security	Between 5 & 11 members – majority must be actively engaged in PI or Security	At least 1 public member
Psychological examiners	5 Psychologists – 1 who is currently a Psychology service provider and 1 primarily a teacher or researcher	N/A
Respiratory Therapists	4 Respiratory Therapists, 1 MD, 1 polysomographic technologist	1 Public member

Massage therapy is a healthcare related field but it is not a medical field and not covered by medical insurance in North Dakota.

Our scope of practice prohibits us from diagnosing, prescribing, or treating.

Medical and covered by insurance

Physicians
Nurses
Physical Therapists
Respiratory Therapists
Lab technicians
Nursing home care
Dentists
Pharmacist's
Radiologists
Osteopaths
Psychiatrists
Naturopaths

Wellness related but not medical

Massage therapists
Yoga
Fitness and Exercise
General Nutrition
Meditation
Energy work
Lifestyle consultants
Herbal and traditional remedies
Reflexologists

MASSAGE THERAPY BOARDS

State	# of Members	LMTs	Public/Professional/Other	Agency
Alabama	6	5	1	
Arizona	5	3	2 with interest in consumer rights or law enforcement	
Arkansas	7	6	1	
California	19			
Connecticut	5			Dept of Public Health
Delaware	7	4	3	Division of professional regulation
Georgia	5	4	1	
Hawaii	5	3	2	Dept of Commerce
Idaho	5	4	1	
Illinois	7	6	1	
Indiana- has six professional staff - board does hearings	5	3	2	Part of Indiana Professional Licensing Agency
Iowa	7	4	3	Part of board of Professional Licensure - Administered by Dept. of Health
Kentucky	7	5 (1 MT must own school)	2 (1 may be health professional - none w/ direct or indirect interest in massage)	Part of Public Protection Cabinet - Office of Occupations and Professions
Louisiana	7	5	1 and 1 Physician	
Maryland	11	6 chiros, 3 LMTs	2	Dept of Health & mental Hygiene; Board of Chiropractic and Massage Therapy Examiners
Massachusetts - agency regulates practioners, salons, and schools	7			Part of Consumer Affairs and Business Regulation
Michigan	11	7	4	Dept of Licensing and Regulatory Affairs
Mississippi	6	4	1+ 1health professional	Chairperson must be massage therapist
Missouri	7	6	1 public member + 1 non-voting member	Division of Professional Registration
Montana	5	3	1 public + 1 healthcare provider	Dept of Labor and Industry

1 pg 6

MASSAGE THERAPY BOARDS

Nebraska	4	3	1	Dept of Health & Human Services
Nevada	7 1 public + 1 non-voting law enforcement member	6	1 public + 1 non-voting law enforcement member	
New Hampshire	3	3		Board of Licensing and Certification - Dept of Human Services
New Jersey	9 2 public + 1 member of executive branch	6	2 public + 1 member of executive branch	Consumer Affairs Dept of Law and Public Safety
New Mexico	5	3	2 public	Regulation and Licensing division. Massage law sunsets in 2016
New York	7	4	3 physicians	State Education Dept.
North Carolina	7	5	1+1 MD	
North Dakota	5	3	2	
Ohio	7	7		Advisory committee for state medical board
Oregon	7	4	2 public + 1 healthcare	
Pennsylvania	8	6	2 public	Part of Dept. of Health
Rhode Island	N/A	N/A	N/A	Dept. of Health – no board
South Carolina	7	6	1 public	Dept of Labor Massage/Bodywork Panel
South Dakota	5	4	1 not an LMT	
Tennessee	7	5	2	Part of Dept of Health
Texas	N/A	N/A	N/A	Dept of State Health Services
Utah	5	4	1 public	Occupational and Professional Licensing
Virginia	N/A	N/A	N/A	Regulated by the Board of Nursing
Washington	5	4	1	Dept of Health
Washington DC	4			Dept. of Health
West Virginia	5 1 lay person w/ no healthcare affiliation & 1 Osteopath or Chiropractor	3	1 lay person w/ no healthcare affiliation & 1 Osteopath or Chiropractor	
Wisconsin	7 1 public member	6 – 1 a technical college rep & 1 a school rep	1 public member	Dept of Safety and Professional Services

#1287

Good morning Chairman Dever and committee members:

My name is Gail Hovden and I am in favor of SB2294. I am here representing myself, but have brought a number of letters of support from many Licensed Massage Therapists (LMT's) practicing in North Dakota. I have been a self-employed practicing massage therapist for 26 years in Bismarck. I have volunteered my time and services over the years with different local organizations two of which are the ND chapter of American Massage Therapy Association and the ND State Board of Massage. I have had the opportunity to hold office on these boards, and other committees as well. As such, I have had the opportunity to speak with numerous LMT's and the public about their concerns of the massage industry, regulations, etc. Questions like 'Why is it so difficult to get licensed in your state?', 'Why did the relicensing fee double?', 'How much longer do I have to take CEU's?'. After many hours of listening and discussion, I feel that SB2294 addresses these concerns.

Page 1:

Line 15 - The ND massage board is comprised of a five member board, three LMT's and two public members. Currently only two members are practicing LMT's. The third LMT is not a practicing LMT but a massage teacher and also a physical therapist assistant. Having a massage teacher on the board is not only a conflict of interest, but can be an income generating venue as well. As a member of the board, a teacher of massage reviews applicants' transcripts to see if they qualify for licensure, then can check students' transcripts and decide if they then need more hours and set up a teach-out plan. There has been an LMT teacher/physical therapist on this board since 2006, approving teach-out plans and assisting in proposed changes to ND law regarding class requirements. I feel this job can be done through the paid administrative office.

Currently, no practicing LMT holds office on this board, and no LMT has held the office of president since 2004. The board president is a public member who has at times not posted meeting times until a few days before the meetings are held, or does not post important issues such as upcoming legislation on the website. He maintains the website for a fee when we have an office administrator who should be doing this as it is part of their job description. Vice president is the teacher I mentioned earlier. The secretary-treasurer position is held by a public member who is a chiropractor. He also teaches MT in Fargo and offers massage therapy in his office.

This board has not had a formal budget for years. It is our licensing fees that fund board activities and I feel that having four practicing LMT's on this board would bring a more conservative approach to board spending.

Having four actively practicing LMT's would facilitate better communication and understanding in what they feel is important for the massage community and the public. LMT's have training in ethics that is specific to the massage setting, boundary issues, and other matters that might

occur in the form of complaints and concerns presented to the board. Public members should not be able to over-ride the expertise LMT's bring to the board.

Practicing LMT's have a better understanding of the financial obstacles LMT's face that are intrinsic to the profession. A public member should have no financial interest relating to massage if that individual is to be charged with representing the public only. Representing any interests of massage therapists or related businesses is a conflict of interest.

Page 2:

Line 15 – Reflects change needed in number of years per term to prevent term overlap.

Line 20 – Covered in SB2085

Line 30 – Requires inspections. Over the last 10 – 12 years inspections were done very sporadically. In 2010, a request was made to double our licensing renewal fees since money available to the board was low. Legislation was passed with the stipulation that inspections would be done on a more regular basis. The board did then increase our fees and at their next meeting voted to do three inspections per quadrant within the state – a total of 12 per year. ND has 726 therapists. If we minimally do 12 per year, it would take 60 years before each one is inspected. At that rate, most LMT's will never be inspected. In fact, there are many LMT's who have said that they have never been inspected during their career. If the board's primary objective is public safety, shouldn't there be a greater number of inspections performed?

Page 3:

Line 8 – Covered in SB2085

Line 20 – ND has always had an excessive amount of required continuing education units (ceu's) compared to other states, as is evident in the included chart. After completing massage school in Oregon in 1991, I passed my licensing exam in ND. Not only was I struggling to start a business, I was also a single parent. Seven months later I had to take another 18 ceu's, and 18 ceu's each year thereafter until 2010 when the requirements changed from 18 ceu's per year to 32 ceu's every two years. SB2085 is requesting that the ceu's be changed from 32 every two years to 24 hours every two years. This will help somewhat but I didn't realize that I was committing to being a lifetime student to a profession that is clearly not a medical profession.

Our scope of practice is quite limited and we are trained to know our limitations and when to refer to other professionals. We are required to earn more ceu's than many other professions. I have provided a list for comparison. This list also shows the number of hours required for graduation for various states and their ceu's. Because of the high number of required ceu's in this state, a number of ND LMT's have shifted their focus from providing massage to taking advantage of the ND ceu market. It is not the purpose of this board to facilitate money-making side businesses.

Page 4:

Line 13c – This is requested for those times when a person needs to take time for medical purposes, becoming a caregiver, or other times of hardship. Currently, letting your license lapse results in not only late fees and license renewal fees, but also jumping through the state's stringent ceu requirements thus creating more costs and hardship. Not only that, but you get your name posted on the "Not Licensed to Practice in ND" column on the state's webpage. We have 726 LMT's in this state and in spite of the population growth in ND, the number of LMT's is dropping. Many LMT's have decided not to renew because of the difficulty faced when trying to relicense after a time of hardship. In fact, if for any reason, whether through the fault of the massage therapist or the administrative office a renewal is late, the office sends out an intimidating letter to the therapist. A copy is provided for you.

Line 15 – Massage therapy training includes many hours of classroom education as well as many lab hours. I have always felt that amount of required ceu's was excessive, and after 26 years of taking continuing education in this field I feel that I have reached a level of professional expertise that allows me to practice my trade quite successfully. I don't think more ceu's after this many years will improve my skills. In fact, many of the classes I am taking now are a repeat of familiar techniques with the added instruction of incorporating a new tool or such into the technique. At this point I am not interested in learning a new modality. But if I should choose to further my skills and specialize in a certain modality or acquire a new modality, I would still have that option.

Ceu seminars can refresh and enhance skills that you already know, and I will say that I have learned from and enjoyed some of these classes. Yes, they can be helpful but they can also be harmful when you only get an introduction to a certain type of massage technique. For example, I did go to a weekend seminar on hot stone massage. Since we worked with cold stones, we did not have training in heating the stones or checking for the correct temperature, where you could potentially burn a client. At the end of the seminar there is no requirement testing for competency. I did get a certificate stating that I was now qualified to utilize stone massage in my practice. I was very uncomfortable to do so. Yet many of the class participants were very excited to get started with this new technique.

The four basic strokes of massage – effleurage, tapotement, friction, petrissage – have not changed over the years. I can see why the teachers of massage school and education promotion organizations such as the American Massage Therapy Association are concerned if ceu's are cut or even dropped at some point in one's career because this is a large part of how they are financially supported. I myself have 456 ceu's in my career. I can't afford to be supporting them anymore since I can't work as much as I used to at this time in my life. I have read that the average career span for a massage therapist is eight to ten years and after that many LMTs go to a different career and keep massage as a part time job.

Line 4 – Covered in SB2085

I want to thank you for your time.

We noticed a mistake that was an oversight in the drafting process and request wording be added in Section 4 amendment part d. found beginning on line 15 of page 4 so that it would read as follows:

A massage therapist who has been practicing for compensation and licensed in good standing with no violations for a minimum of fifteen consecutive years qualifies for license renewal with no additional continuing education required.

#2 pg 5



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 USDE 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	

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 NCETMB and NCETM; check with your state to determine which it accepts.

#2094

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.	

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.

#2 pg 7

North Dakota State Board of Massage

PO Box 218
Beach, ND 58621
Phone 877-268-8139
Fax 877-815-6337
Email karen.wojahn@ndboardofmassage.com

January 30, 2015

In the process of compiling a list of unlicensed therapists in the State of North Dakota for publication, it has come to our attention that you have not renewed your License. This may be for a couple of reasons. Either you did not inform us of a name or address change and you did not complete the online renewal, we have not yet received your ceu hours required to complete your renewal or you choose not to practice in the State of North Dakota at this time.

In the event the reason is the former, you must contact us immediately, for your renewal code to complete the online renewal, so that we do not publish your name. Because your renewal is late you will now need to pay the required fee of \$100.00 for the renewal as well as the \$50.00 late fee, if you are an odd licensed # you will also need to attach a copy of your of ceu's.

If you do not renew your license before December 31, 2015 your license will lapse. If you let your license lapse you will need to reapply for licensure, pay the required \$150.00 application fee, submit an affidavit of compliance, a current CPR certificate, a recent passport type photo, a photocopy of confirmation of repeating and passing the NCBTMB or MBLEX exam and also a statement from your physician.

If you do not wish to renew your license, we would appreciate a telephone call, e-mail or letter informing us of this decision so we can update our files.

Just to make it clear YOU ARE NOW AN UNLICENSED PRACTITIONER! That means that it is against the law for you to be practicing massage, even if you are not charging a fee. As stated in Title 49 Administrative Rules, 49-01-02-03, (Paragraph 2.) Practicing massage after a massage therapist's license has expired constitutes the unauthorized practice of massage. Practicing massage under an expired license is a violation of North Dakota Century Code Section 43-25-03 and is grounds for the board to refuse to renew the person's license under subsection 3.

Practicing massage without a license is a class B misdemeanor under North Dakota Century Code (N.D.C.C.) § 43-25-19. The maximum penalty for a class B misdemeanor is thirty days imprisonment, a fine of \$1,000 or both. N.D.C.C. § 12.1-32-01(6).

We will be publishing a list of list of therapists in the State who are no longer licensed, so it is in your best interest to contact us immediately to update your standing.

Very Truly Yours,


Karen Wojahn

January 16, 2015

I am in favor of the bill supporting that the North Dakota State Board of Massage be made up of four Licensed Massage Therapists and only one consumer member.

I am in favor of the bill supporting that after 15 years of being a Licensed Massage Therapist you should not have to continue doing continuing education every year.

Kristin Helland, LMT #1084

Kristin Helland, LMT #1084

Mandan, ND

1-22-2015

I have been a licensed Massage therapist in North Dakota since 1975. I am in support of Bill #SB 2294. I thank you for your consideration of this Bill.

Judy Alheiser
238-9th Street East
Dickinson, N. D. 58601

Jan. 26, 2015
#2 pg 10

I am a ND licensed
massage Therapist and
I am Supporting
Measure 2294.

I am Having Gayle Hovden
Represent me.

Kay Erickson LMT #177

January 23, 2015

Attention: Legislative Assembly of North Dakota

To Whom It May Concern:

My Name is, Dralinn J. Koenig, LMT. I have been a Licensed Massage Therapist, at my business of Guided Hands Therapeutic Massage, in Bismarck, ND, practicing for coming up on 22 years.

I am writing to inform you that I am in support of SB NO. 2294.

Sincerely,

Dralinn J. Koenig, LMT

Dralinn J. Koenig, LMT

CenturyLink Webmail

± Font Size ±

Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

From : judy jacobson <vmassage@cableone.net>

Sun, Jan 25, 2015 03:54 PM

Subject : Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000**To :** hands4u@q.com

Gail, yes I support this bill and I know you left the bill # on my call phone but I have misplace it and if you send it to me again I can say on this email or the nest one I send you that I do support the bill. Judy Jacobson RN, LMT

On Jan 14, 2015, at 1:48 PM, CenturyLink Customer wrote:

From: "CenturyLink Customer" <hands4u@q.com>**To:** vmassage@cabelone.net**Sent:** Wednesday, January 14, 2015 1:41:30 PM**Subject:** Fwd: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

Hi! Here is my address to mail our letter of support for this bill (I'm sending it to you too) and other links that would be interesting to share (plus more) making so the sooner the better this bill that makes our kids safer. Thank you!

CenturyLink Webmail

± Font Size ±

senate bill-2294 Thank you Gail!!

From : ssilkman@ndsupernet.com

Thu, Jan 29, 2015 01:31 AM

Subject : senate bill-2294 Thank you Gail!!**To :** hands4u@q.com

to whom it may concern, I have been a massage therapist since 1983 and I am very much in favor of senate bill 2294! I would like to be able to choose, at this point in my career, to attend the conventions if I so desire! thank you for your support of this bill! Sincerely, Sharon Silkman, 135 hwy 8 south, Hettinger, N.D.

Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

From : Virgil Vetter <virgilvetter5@gmail.com>

Tue, Jan 27, 2015 11:44 AM

Subject : Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

To : CenturyLink Customer <hands4u@q.com>

I got it and yes I would support you on that Bill Virgil Vetter.

On Jan 27, 2015, at 9:50 AM, CenturyLink Customer <hands4u@q.com> wrote:

let me know if you got

From: "CenturyLink Customer" <hands4u@q.com>

To: "gail hovden" <hands4u@q.com>

Sent: Monday, January 19, 2015 7:22:31 PM

Subject: Fwd: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

<15.0511.02000.pdf>

January 16, 2015

I am in favor of the bill supporting that the North Dakota State Board of Massage be made up of four Licensed Massage Therapists and only one consumer member.

I am in favor of the bill supporting that after 15 years of being a Licensed Massage Therapist you should not have to continue doing continuing education every year.

A handwritten signature in cursive script, reading "Jennifer Gensburg".

Jennifer Gensburg, LMT #1070

Bismarck, ND

November 13, 2014

NeuroMuscular Therapy and Wellness
133 Highway 8 South
Hettinger, N.D. 58639

To Whom It May Concern:

I have been a Licensed Massage Therapist in North Dakota for 34 years and for 2 years prior in South Dakota. I continue to maintain a full time practice. After this many years of education and practical experience I do not feel the continuing education hours should be mandatory. I would still attend classes that I might be particularly interested in. I feel after 15 years the continuing education could be waived for license renewal without there being any professional ramifications.

Also, I support the North Dakota Board of Massage being comprised of 4 Licensed Massage Therapists and 1 consumer member.

I appreciate your time and consideration to these issues.

Respectfully,

A handwritten signature in cursive script that reads "Mary J Eggebo".

Mary J Eggebo, LMT

I am writing this letter in support of Senate Bill No. 2294.

I strongly support changing the board of massage to consist of five members with four of the members to be licensed in this state and actively practicing massage therapy for at least three consecutive years immediately preceding appointment to the board.

I feel having four practicing massage therapists on the board is crucial to make important decisions regarding our profession. I also support having only currently practicing massage therapists on the board as we know the day to day challenges of maintaining a successful and ethical business.

I also support changing the requirements for licensed massage therapists who have been practicing for fifteen consecutive years to no additional continuing education required. The majority of us in those shoes constantly research and learn new material on our own anyway.

I would like to urge the senate to pass this bill as it is written.

Thank-you

Karen Lang LMT

Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

From : Mary Apple <maryapple62@yahoo.com>

Sat, Jan 17, 2015 06:56 AM

Subject : Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

To : CenturyLink Customer <hands4u@q.com>

Reply To : Mary Apple <maryapple62@yahoo.com>

Dear Gail,

I am writing to say that I am for your bill. And my email address is maryapple62@yahoo.com. I live in Mandan ND and work as a massage therapist in Mandan also.

Mary Degner

On Monday, January 12, 2015 9:41 AM, CenturyLink Customer <hands4u@q.com> wrote:

Thank you Mary, What I need is a email from you saying you are in favor of this bill, with your name and where you are from. you are also more than welcome to come to the capital and tell them too. I will take your written email with me when i go to the capital, if you can write me one. thank you gail

From: "Mary Apple" <maryapple62@yahoo.com>

To: "CenturyLink Customer" <hands4u@q.com>

Sent: Monday, January 12, 2015 9:34:21 AM

After needing a career change I became a massage therapist in 1982. Since Aug of 2011 due to health reasons I am not able to do massage therapy. I have kept my massage license, but due to needing to have credit hours for education, I have let my license lapse.

It would be a good benefit to myself and other therapists that credit hours are no longer required after fifteen years of work.

The enclosed legislation is an excellent bill very well presented to meet the needs of present and future therapists.

Carol Hattel

massage bill support

From : Laura Kraenzel <chloecolty@outlook.com>

Tue, Jan 20, 2015 11:06 AM

Subject : massage bill support

To : CenturyLink Customer <hands4u@q.com>

Sent from Windows Mail

My name is Laura Kraenzel. I am from Dickinson, ND. I have been a licensed massage therapist since 1997. I agree with this bill and I fully support it. I am in full support of the 4 LMT's and the no more CEU's after so many years. We are losing older therapists that are not being treated right and I this would really help the problem. Thank you for your careful consideration.

Sincerely,
Laura Kraenzel

Proposed bill

From : massey@bektel.com

Thu, Jan 22, 2015 09:48 AM

Subject : Proposed bill

To : hands4u <hands4u@q.com>

Reply To : massey@bektel.com

This is for Bill # SB2294.

I have read the bill and agree of the changes being made.

Bobbie Jo Brindle. LMT#210

CenturyLink Webmail

± Font Size ±

From : Rowan Dahners <bernadetteschmidt1@msn.com>

Thu, Jan 08, 2015 11:54 AM

Subject : <No Subject>**To :** g h <hands4u@q.com>

Hi Gail Hovden,

I totally support to have 4 LMTs on the State Board, LMTs would understand of what massage therapist needs and wants are. Also to have the continued education stop after so many years of being a massage therapist, I have been a therapist for 22 years and I don't see how much more continue ed can help me in my practice. I would like to have the choice to go to more classes if I choose to and it not be manditory!

Thank you
Bernadette Schmidt.

Lucia S. Steinmetz
216 6th Ave NE
Jamestown, ND 58401
(701) 252-0816

January 19, 2015

Gail Hovden
424 N 15th St
Bismarck, ND 58501

Dear Ms. Hovden,

I am writing in support of your efforts in testifying to the Legislature concerning the ND State Board of Massage Therapists. After 33 years as a massage therapist, I have interest in seeing legislation enacted to protect the interests of licensed massage therapists.

I am glad to see the recent increase in required hours from 500 to 750 within the ND Massage Therapy schools. More hours will better prepare students to complete the ND State Boards successfully. However, I do have a concern with the cost of the license renewal continuing to increase without sufficient reason behind the increase. For many years it was consistently set at \$50, in 2012 it doubled to \$100, the last I understood there is discussion it will increase another \$50 in 2015.

I also support the proposed measure 43-25-05 (3.d) stating licensed massage therapists having a paying practice for over 15 consecutive years should not be required to complete continuing education in order to have their license renewed. I agree with the concept, however I would suggest 20 years of consecutive years of service. As was my experience, many of the continuing education opportunities I encountered had already been covered in previous years and it was material I was using and new well already. So it was a burden of time away from my employment and extra expense in attending the conferences.

It is disappointing to still see the number of people within the state of ND that continue to practice massage therapy without a valid license. There needs to be regulations in place and consequences for those not meeting the guidelines.

One other area I would like to address is the ND State Board of Massage Therapists and how it is comprised. Statutes need to be implemented to limit the number of years one can serve on the board in any capacity and once the term is up, stepping down should come without any problem.

In the past, the ND State Board used funds collected to send representatives to the National Massage Therapy conventions. I feel this was a waste of funds, as the representatives would not bring anything back to share from what they had learned while in attendance. However, I do recall once instance, where Mr. Olson from Fargo attended a convention in China and brought back wonderful videos of new massage techniques that were very helpful.

I am so grateful for Gail Hovden to take on this task of bringing this before the Legislative assembly on behalf of the ND State Massage Therapists. I hope for the best and glad I could be a part of it.

Sincerely,


Lucia S. Steinmetz

bill 2294

From : Bonny Kemper <breatheagain@srt.com>

Tue, Feb 03, 2015 04:27 PM

Subject : bill 2294**To :** hands4u@q.com

I have been a massage therapist in North Dakota for 11 years. I have been practicing in Minot for all those years. It would be greatly appreciated if you would support Bill 2294. Thank you for your consideration. Bonny Kemper, BS, LMT,LR

Bonny Kemper
(701) 721-1492 mobile
breatheagain@srt.com

Fwd: support of 2294

From : CenturyLink Customer <hands4u@q.com>
Subject : Fwd: support of 2294
To : gail hovden <hands4u@q.com>

Wed, Feb 04, 2015 10:24 PM

From:

----- Begin Forwarded Message -----

From: Heidi<'strainheidi@ymail.com'>
Date: Feb 4, 2015, 3:25:53 PM
To:
Subject: support of 2294

I also feel we need bill 2294 to pass. Our massage board needs to be run BY massage therapists. We need to take control of our own board. We need some changes and I strongly feel this bill will help get these changes made. We need people on the board who understand this profession in this day and age and understand what it means to be a massage therapist, they need to truly understand how the profession works and I feel that this absolutely can not be done unless you are a massage therapist. I support this bill. I I think you should too.
Thank you for your time and consideration,
~ Heidi Strain, LMT # 847

Education credits

From : The Hearing Aid Company <thehearingaidco@srt.com>

Tue, May 21, 2013 02:59 PM

Subject : Education credits

To : hands4u@q.com

April 30, 2013

Board of Massage Therapy

Massage for Body Benefits

Lisa Risovi

Lic #468

1809 So Broadway Ste. I

Minot, ND 58701

I received a call this morning asking my opinion on continued education for veteran therapist. I am a therapist of 14 years.

I am cutting back to part-time for my body cannot work the full time hours any longer. I would like to see the continued education hour's change as the years of service get higher.

We get very redundant when it comes to educating and don't feel the need to have as many hours of continued education to fulfill our license unless there are extreme changes in the law or modalities.. They take a new named class and we get refreshed after the many years we have educated. It is tough to get new material for continued education.

My vote would be to reduce education and try get more people involved in the board meetings. I myself have never been to one because of time and timing.

Lisa Risovi

Massage for Body Benefits

Dear Board Members,

I would like you to consider changing the continuing education requirements in our state. I do feel it is beneficial to have continuing education when you are new to the profession. After ten plus years tho I would like to see it dropped. We should realize not everybody is full time after so many years as this profession is hard on our own bodies. Maybe more therapists would keep up licenses if the CEU's were not required. Our state requires alot of CEU's! Nurses require 12 CEU's every 2 years. Cosmetology doesn't require any. We are even required more hours than a pharmacist. Pharmacists have to have 15 CEU's a year. Nurses and pharmacists professions change alot. I feel if we want to pursue any education it should be our choice, not required by the state. Please consider changing this law. Thankyou.

Sharon M Peterson

P.S. It would be interesting to see what other states require for CEU's.

From: Heather J hljorstad@aol.com
Subject: In support of Senate Bill 2294
Date: January 30, 2015 at 7:52 AM
To: Lklemin@nd.gov

#2 pg 28

Hello,

I am in support of Senate Bill 2294. Being a massage therapist for the past 14 years I believe it is important for us Licensed Massage Therapists to have a voice on how our state board is run. I am in favor that our Massage State Board should consist of 4 Practicing Licensed Massage Therapists and 1 Consumer Member. Our board currently consists of 3 Licensed Massage Therapists, 2 of which are currently doing massage as there profession and 1(it is my understanding) who is teaching massage but not currently doing massage on a daily basis. We also currently have one of our consumer members as President of our Massage Board. I strongly disagree with this, and think that only Practicing Licensed Massage Therapists on the board should hold office as President. Currently all consumer members are holding office and the LMT's are not. This is causing conflict on our Board and I believe should be changed.

In section 4 Number 3d. I will say that I do not agree with the bill stating after a Licensed Massage Therapist has been licensed for 15 years that they will no longer need continuing education. I am one for education, and believe that every individual always has room to learn and grow, whether you have been in the business for 1 year or 15.

Thank you for your time, please consider supporting Section 2 of Senate Bill 2294.

Sincerely,
Heather Jorstad, LMT

CenturyLink Webmail

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Fwd:

From : CenturyLink Customer <hands4u@q.com>
Subject : Fwd:
To : gail hovden <hands4u@q.com>

Wed, Feb 11, 2015 01:13 PM

From: "p berg" <lmberg@gmail.com>
To: "Gail Hovden" <hands4u@q.com>
Sent: Wednesday, February 11, 2015 12:19:30 AM
Subject: Fwd:

--Gail,
One more for your support group.

----- Forwarded message -----

From: **Arlene Pozarnsky** <lakeloopmassage@yahoo.com>
Date: Tue, Feb 10, 2015 at 7:53 PM

hey girl, just a little note to say I am in favor of bill 2294, change does need to be made. I like the idea of 15 yrs and then no more ceo's, actually 10 or 12 years would be good. If u stay in it after 10 u know that is what u want to do and you will automatically keep or take your own continuing education. I like the idea of inspections. Changes to board members is great. what about Karen W. job, I think 10 year status is good and then off for a few and back on. What is up with all the money we have? just get it passed and then work on changes,

Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

From : judy jacobson <vmassage@cableone.net>

Wed, Feb 11, 2015 01:25 PM

Subject : Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

To : CenturyLink Customer <hands4u@q.com>

Yes Yes I am in favor of the SB 2294-----Judy Jacobson RN\LMT

On Feb 11, 2015, at 1:11 PM, CenturyLink Customer wrote:

bill is being heard on fri am. please send ASAP if you are in support of SB 2294 thank you gail

From: "CenturyLink Customer" <hands4u@q.com>

To: smpboe@gmail.com

Sent: Saturday, February 7, 2015 8:04:06 AM

Subject: Fwd: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

thought i'd try again, here is a number you can call your legislators and leave a message , asking them to vote yes on SB 2294. everybit helps!!!! thanks gail

From: "CenturyLink Customer" <hands4u@q.com>

To: "gail hovden" <hands4u@q.com>

Sent: Monday, January 19, 2015 7:22:31 PM

Subject: Fwd: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

<15.0511.02000.pdf>

To whom it may concern,

I am writing in regards to the continuing education hours. I have been an active massage therapist in the state of North Dakota for 8 years. I own my own business in Binford, ND and have a thriving business in a little town of 180 people. A town this size required people like myself to become volunteers in our communities. 4 years ago I joined the Cooperstown Ambulance Squad as a volunteer Emergency Medical Technician (EMT). I am nationally recognized as a practicing LMT and EMT. Continuing education in these two professions is held at a high standard in the state of ND. It is my proposal that these two professions be allowed to join in regards to continuing education. Continuing education requirement for EMT is 20 national hours, 10 local hours, and 10 individual hours every 2 years. LMT requirements are 32 hours every 2 years with at least 3 hours dedicated to ethics.

Board members are a critical resource to people like me. I support the proposal that the State Board of Massage be made up of 5 members, 4 being LMT's and 1 being a consumer member. We need people on the board that understands our profession as a whole. This is a growing industry which needs a solid foundation starting at the top with the board members. This profession was chosen by each licensed massage therapist practicing in ND. Let us put into place a board that protects and understands the issues that massage therapists encounter.

Thank you for your time and consideration.

Sincerely,

Theresa A. Iverson 969

In The Zone Massage Therapy

Binford. ND 58416

CenturyLink Webmail

FW: Senate Bill

From : Shasta Held <ShastaHeld@gatecitybank.com>

Thu, Feb 12, 2015 10:25 AM

Subject : FW: Senate Bill**To :** hands4u@q.com

Hello

I am writing to agree with Senate Bill NO 2294. I am a part-time Massage Therapist I have been active therapist since 2003. I agree that 32 hours every two years is way too many.

I feel that it is just a money game for CEU'S they are way overpriced. For being a Therapist for 12 years I feel it should be my choice if I want to take Continuing Education. I feel 8 hours would be plenty for a Massage Therapist my husband is an electrician and he only needs 8 a year . Massage Therapy is a hard profession to stay active in. I believe by adjusting the hours this would make a huge difference for us therapists. Training takes away time that we can be in the office make a difference for a client. Thank you for your time in considering this change.

Shasta Held #779

RE: CUE'S**From :** Carla Anderson <scrapbooker@bektel.com>

Thu, May 02, 2013 09:33 AM

Subject : RE: CUE'S**To :** hands4u@q.com

Gail,

I know this is something that I have been bringing up for awhile. It is actually something that I would do more research on before submitting it before the State Board. I do not know if it is being practiced in any other states.

Here is what I know and what I feel. I have heard that the average work expectancy of an LMT is 8 years because of several reasons, one being that the work is too hard for some people's hands to do.

This is myself and how I feel. Over the years, I have taken several different courses, as like everyone else, and I seem to take a little bit from each course and add it to my practice. At this point, I was licensed in 1996 and over the years I have developed my own massage techniques from all the different speakers that we see, again like everyone else that has been in this profession. As I take continuing education that relates to what I do, it is a refresher, but gets boring and monotonous. Over the last few years, I know myself and others that have been in the profession over 10 years find the continuing ed. to be a waste of money and lost time from our business.

As I look at each profession and see how educational requirements are required for each profession such as electricians, home inspectors, appraisers that have code/safety/requirement changes every year or other year, doctors, nurses, medical professionals they have new medicines, advanced medical equipment, new cures for diseases, I see where it is important for them to get continuing education every year. As for massage therapists, once you start hitting 10-15 years, you've gone beyond our expected work expectancy and there isn't many new things that pop up for us each year. I feel that once you start hitting 15-16 years of continued work in the profession, no breaks in between so that continuing ed was taken each year, we should change the education requirement of an LMT to what is required of our biggest massage affiliation, the AMTA, 48 hours every 4 years. Now, I would like to say, change it to 6 hours a year, but, I think we should at least keep it within national standards.

Gail, please give my apologies to the State Board as I know we typically use to have a representative from the AMTA-ND Chapter at the meetings and I do not know if anyone plans to attend yet again, but the reason I have not started attending the meetings myself is because I have been the breadwinner of my family for the last 2 years while my husband works through some issues and I cannot afford to take many days off, Friday being one of my best days of work. Also, as we are planning our Fall Workshop, we were interested in using local people to keep our costs down, but the people we are thinking of asking certainly do not hold national certification #'s. Are we able to hire and have people speak that do not have NCBTMB certifications? Another question is, one of the people I would like to ask does a 4 hour course on pediatric massage that deals with several difficult cases such as cerebral palsy, autism, adhd, and etc. I believe she has a NCBTMB number, BUT, we would not have her travel out here, I would like to do like a webinar where we would have her project on a screen and interact with the class. Like online schooling. Is this acceptable? Seems silly to take so much away from a speaker and spend so much money for a 4 hour course. It is mainly lecture. If you could let me know, we have a meeting on Monday the 6th and will be starting our plans for the workshop then.

Thanks much and if you need more info., please contact me at 400-7841.

Carla A.

PS: What is all expected of a person being on the state board?

From: hands4u@q.com [mailto:hands4u@q.com]

CenturyLink Webmail

± Font Size -

Fwd: Fw: 2294 bill support of

From : p berg <lmberg@gmail.com>
Subject : Fwd: Fw: 2294 bill support of
To : Gail Hovden <hands4u@q.com>

Thu, Feb 12, 2015 09:32 PM

On Thursday, February 12, 2015 2:37 PM, Karla Hoffert <karla_hoffert@hotmail.com> wrote:

I would like my support of bill 2294 be known that I agree with the proposed changes to this bill, I believe the changes will help to support the Massage Profession, now and further in the future.

Sincerely,
Karla Hoffert LMT

Chairman Dever and members of the committee:

My name is Pat Berg. I am a practicing licensed massage therapist (LMT) and a member of the ND State Board of Massage. I am testifying in favor of SB2294 which is similar to the board's bill SB2085; however, with some major differences. By favoring this bill I am in opposition to the official position of the board on this bill.

Section 2 Amendment:

Pertains to the structure of the Board of Massage

The present makeup of this board does not have a majority representation of practicing LMT's. With only two fully practicing LMT's sitting on this board and neither one holding office, this board does not represent the best interests of our practicing LMT's, nor that of the massage therapy industry in this state. The practicing massage therapists are kept "out of the loop" on the regular operations of the board, do not have free access to financial information, to licensing decisions, to continuing education decisions, nor any of the regular operations of the board. Requests for information are generally ignored.

This board has used up to one-third of its revenues in a single year in payment to a marketing firm for a campaign completely unrelated to massage therapy. This board chose to hire an office administrator for thousands of dollars more than either of two other viable bids that included more services. This board overspends in duplication of services. This board is lax in accountability.

Leadership is floundering and North Dakota LMT's have lost their voice. SB2294 would give this board the necessary tools to correct many of these issues.

Section 3 Amendment:

Pertaining to inspections and background checks

Inspections inform the board and therapists about safety and sanitation issues, as well as provide an opportunity to impart information to correct or prevent problems should they arise. Along with random board inspections, self-inspection forms can be submitted as a requirement for licensure renewal. The self-inspection forms are in-depth and very informative, allowing a therapist to understand what is required of them. A board member or hired inspector could do follow-up inspections where problems have been detected.

Provided we can resolve the issues stated above, inspections can be affordable to this board should we find it necessary to hire an inspector on occasion.

Section 4 Amendment:

Pertains to continuing education units

The ND State Board of Massage and the massage community of this state need to focus on what is happening at the national level. As the massage industry evolves and becomes regulated and licensure becomes required by more states, the need has arisen for industry standards. Presently, 41 states require licensure, along with the District of Columbia and Puerto Rico. Of the remaining states, two require either state licensure or state certification, two require state certification, and five require local certification - three of which currently have pending licensure legislation. The US Virgin Islands also require certification under its Department of Health. There is a large variance in statute from state to state, making for difficulties in regulation and reciprocity.

In 2011, representatives of seven national professional organizations for massage met to discuss the challenges facing the massage industry. This "Coalition of National Massage Therapy Organizations" did an in-depth study to identify and address opportunities to advance the massage therapy profession. A 266 page Practice Act Blueprint was developed.

An attachment lists the organizations and very briefly summarizes their findings and outcomes. The report website is listed as well. Please note that the American Massage Therapy Association is on this list. Over one-third of massage therapists in ND are members of AMTA.

In essence, the Coalition is seeking a standardization of education and continuing education requirements throughout the nation. It is recommending legislation guidelines to bring a cohesiveness to the massage therapy industry. It is the coalition's hope that states now lacking regulation and/or licensure utilize their template as a guide, and that states already requiring licensure take a fresh look and consider implementing suggested changes to their current licensing laws.

Among its recommendations, the Coalition is raising the bar on the quality of the massage therapy student by requiring a higher standard of entry level education. It is recommending 625 industry entry-level hours required to graduate from an accredited school. Most states currently require 500 hours. North Dakota requires 750. The Coalition is recommending classroom hours for modality specialization rather than becoming certified at a weekend workshops. Focus will shift away from yearly required ceu's to maintaining core competencies, with a recommendation of 6 ceu hours per year. Most states currently require 24 hours every two years. North Dakota requires 32 hours every two years.

Because of these national recommendations and because ND requires much higher ceu hours than any other state, ND would do well to lower the ceu requirements to allow voluntary compliance within these guidelines. To keep ourselves isolated from the majority creates difficulty for anyone moving into ND who wishes to practice massage therapy. It gives us an unapproachability and does not advocate the growth of the massage community in North Dakota.

I thank you for your time today.

Coalition of National Massage Therapy Organizations:

- Alliance for Massage Therapy Education
- American Massage Therapy Association
- Associated Bodywork and Massage Professionals
- The Commission on Massage Therapy Accreditation
- The Federation of State Massage Therapy Boards
- The Massage Therapy Foundation
- The National Certification Board for Therapeutic Massage and Bodywork

Findings:

- Inconsistency in quality, depth, quantity and focus of entry-level massage therapy education skills and knowledge
- No national standards for massage teachers
- Lack of licensure portability

Outcome:

- Agreed upon core elements of entry-level massage therapy instructional programs
- Developed the Entry-Level Analysis Project (ELAP), a 266 page report outlining an Entry-Level Massage Education Blueprint consisting of research-informed conclusions in classroom instruction, curriculum development, instructional design, and assessment expertise.
- Shifting the focus of licensure renewal requirements from requiring continuing education hours to maintaining core competencies

The complete report can be found at http://www.elapmassage.org/final_report.php

Testimony, Senate Bill 2294

Steve Olson
2808 Maple Street N.
Fargo, ND 58102
701.293.9482
District 44

To: Senate Government and Veterans Affairs Committee
Senator Dick Dever, Chairman; Senator Nicole Poolman, Vice
Chairman; Senators Dwight Cook, Kyle R. Davison, Tim Flakoll,
Richard Marcellais, and Carolyn Nelson, Legislative Members

Section 2 Amendment.

I strongly support the changes in composition of the Board of Massage to four practicing massage therapists and one consumer member. I agree that the consumer member should not hold a board office. I do not believe that consumer protections will be compromised by having one rather than two members.

I support language that will lead to broader representation of licensees on the Board of Massage. I suggest adding an additional limiting clause that restricts the number of American Massage Therapy Association (AMTA) members that can serve on a board.

Section 4 Amendment.

I appreciate the proposed exemption from the continuing education requirement for massage practitioners licensed for 15 consecutive years. This will benefit me since I have been practicing for 30. However, I don't think that the Board of Massage needs to be involved with this aspect of the massage industry and recommend that all CEU requirements be eliminated.

I do not support mandating 3 CEUs on Ethics.

02/13/2015

____ Chairman and members of the committee, my name is Tilman Jones from Palermo ND. I have practiced massage in ND since 2003. I am against Senate Bill 2294 because of Section 43-25-09 item 3 subsection d on page 4 of the bill.

This subsection d states a massage therapist who has practiced massage for 15 consecutive years qualifies for license renewal without additional education required.

I feel continued education is more than just a chance to learn something new. The challenge of learning something new can often times stimulate better understanding of existing knowledge. It also is a chance to refresh our outlook on the profession by networking with our peers. It is very important to have current information and techniques to provide the best possible massage therapy.

I know of no profession that tells its practitioners "Ok you now know enough" .

To stop learning after 15 years of practice means we become stagnant.

I believe passing SB 2294 as is would be the beginning of the end of quality massage in North Dakota.

I ask you to amend SB 2294 by striking Section 43-25-09 item 3 subsection d.

Thank you

Tilman Jones

2/13 #6
pg 1

Good morning. I am here today to speak in opposition to proposed SB2294.

My name is Jon Simmons. I am the current chair of the ND Board of Massage. I have served on the board in some capacity since late in 2010. I am a consumer member. My field is the financial services industry.

Proposed SB 2294 allows for criminal background checks to be required. This component is important but already contained in SB 2085. SB 2085 is legislation related to the massage therapy field that was developed by a committee of massage therapists, board members, and educators in late summer. The committee's report was presented to the board, debated, and voted on. The proposed bill was then submitted for this legislative session. It passed through committee with a unanimous vote. It passed through the senate with a unanimous vote.

Today SB 2294 calls for the change in the composition of the board. Changing the board composition in this manner could work against the very reason the board exists, consumer protection. The primary role of the licensing board is consumer protection. Licensure of massage therapists, disciplinary actions, investigations, and legal action are all ways the board fulfills its role to protect the consumer. It is beneficial to have diverse backgrounds on a board. In fact, years ago it was the legislative body of ND that mandated the board composition change from a total of 3 massage therapist to 3 massage therapists and 2 consumer members. Minnesota is currently working on regulating massage therapy in a similar fashion and has currently proposed a 5 member board with the same split that we currently have. The decisions at the board level are many times those of ethics, enforcement, and administration. These decisions do not necessitate a background in massage therapy. In my years on the board I can recall one issue that required a higher level of technical understanding to be able to vote. In the same way you have all been elected to your positions, you do not need to be experts in each field to make decisions on behalf of your constituents. The consumer members hold a vital role just as you hold vital but differing roles.

This bill obligates the board to perform inspections of every facility every year. This would be an onerous law. It would consume most if not all of the entire annual revenue of the board. However, I would point out that the board has the ability to decide

to inspect every facility every year under current law. Changing the law in this regard would force this obligation for all time without regard to fiscal issues and logistics.

Proposed SB2294 would eliminate the need for continuing education for therapists who meet a 15 year threshold. Many of the others have spoken to this or will speak to this but have two points to make in this regard. The first is that the board's primary responsibility is in consumer protection. The board deals in cases where therapists seriously injure their clients. These injuries can impact the consumer for weeks, months, and years of their lives. While continuing education will not prevent all injury from happening, it will provide assurances that we are holding the high standard in accordance with our mandate. As a board we would hold a level of responsibility if a therapist injured a client due to lack of ongoing training. This is why we voted this provision down in our board discussions. Unfortunately this responsibility now lays with this committee. Many of the proponents of this bill have served as massage therapists for a decade or more. Their dedication to the field is unquestioned and I thank them for their service. However the laws related to massage therapy are not in place to serve the massage therapists. The second point is that clauses such as this should reinforce the value current board composition. If changed to a 4 to 1 blend from massage therapists to consumer members it could throw off the checks and balances and run the risk of becoming a self-serving entity.

This bill declares itself an emergency forcing direct action by the Office of the Governor. Taken as it is written the Office of the Governor would be obligated to eliminate two of the current members of the board due to the criteria put in place regulating who may serve on the board. I have received no contact with questions or concern from those that keep the board staffed at the Governor's office. My point is the governor has tools to address issues at the board level if deemed necessary. The governor can simply replace us. My term is potentially coming to an end in the coming months due to the term limits I was instrumental in developing and passing a recent legislative session. This would leave the two most junior board members to continue the work of holding the high standards we have worked so hard to maintain.

In conclusion, as a board we thoughtfully considered each of these areas when we constructed and approved our proposed bill. We have broad-based support for SB 2285. With that in mind I would urge the committee to vote against SB2294. I am

#4
pg 3

happy to answer any and all questions at this time.

Respectfully

Jon Simmons



SB 2294 2/13 #7
Pg 1

FSMTB

FEDERATION OF STATE
MASSAGE THERAPY BOARDS

North Dakota Board of Massage
Attn: Jon Simmons
P.O. Box 218
Beach, ND 58621

January 29, 2015

Re: Senate Bill 2294 & 2085

Dear Chairman Simmons and Board Members:

The Federation of State Massage Therapy Boards (FSMTB) appreciates the board's invitation to assist you by offering formal opinion on SB 2294 and SB 2085. The mission of the FSMTB is to support our 41 member boards, including North Dakota, in their work to ensure that the practice of massage therapy is provided to the public in a safe and effective manner. FSMTB serves the regulatory community and provides benefit from the knowledge gained by combining individual state resources into a larger Federation, the FSMTB.

Based on this knowledge gained and the FSMTB's mission to support our member boards, FSMTB supports the board's decisions to support SB 2085 and oppose SB 2294. This opinion has been reached following examination of the bill, FSMTB's comprehensive knowledge of known best practices, and our mission to support our member boards. There are three main areas that provide concern in SB 2294 that we believe SB 2085 adequately addresses.

1. *Structure of the Board:* FSMTB supports the structure of the board as proposed in SB 2085. Consumer members offer an invaluable and unique perspective that contribute to the regulation of massage therapy in North Dakota. SB 2085 provides an adequate and fair balance of consumer and practitioner input into regulating the profession.
2. *Continuing Education:* The evolution of professional changes and best practices that arise within the industry require a continuance of education throughout a practitioner's career. The FSMTB believes these such continuing education offerings are consequently needed beyond a practitioner's initial 15 years. SB 2085 provides for this continued educational enhancement over a practitioner's career.
3. *Inspections:* Under the language proposed in SB 2085, inspections are able to be performed. The lack of a mandate in SB 2085 does not preclude the option from being exercised. The

board should have at its discretion the ability to make decisions when inspection is most appropriate.

4. We appreciate the opportunity to be available to you to discuss the issues salient to the two legislative initiatives on your board conference call, yesterday and support your board's position on the aforementioned bills.

FSMTB's mission is always to support our member boards in their efforts to ensure the practice of massage therapy is provided to the public in a safe and effective manner. FSMTB agrees that SB 2085 maintains the level of public protection expected by the FSMTB. Again, FSMTB appreciates the opportunity to provide a formal opinion. If you have further questions, please direct them to either myself, Sally Hacking, or Brock Ingmire at FSMTB.

Sincerely,

Sally Hacking
Director of Government Relations
(p) 727-686-0966
(e) shacking@fsmtd.org

Brock Ingmire
Government Relations Specialist
(p) 913-681-0380
(e) bingmire@fsmtd.org

Senate Bill No. 2294

Wendy McGinley, LMT and Vice President, ND Board of Massage

February 13, 2015

Good morning Chairman Dever and members of the Government and Veterans Affairs Committee. My name is Wendy McGinley and I am the Vice President of the ND Board of Massage. I am a licensed massage therapist, a licensed physical therapist assistant and the Program Coordinator and Instructor for the massage therapy program at Williston State College. I am here to explain why the ND Board of Massage stands in opposition of Senate Bill No. 2294.

Section 2 – Under #1a - The Board of Massage does not support changing Board membership to 4 LMTs and 1 consumer member. There was a legislative mandate a number of years ago that put 2 consumer members on the Board. The Board is in place to protect the public and by removing the voice of a consumer member it would do just the opposite; therefore, giving the consumer a limited voice on the Board.

Under #1b – The Board of Massage does not support the listed limitations placed on who could qualify for the consumer member position. The Board has asked for input and based decisions made by the suggestions from those who hold other healthcare licenses that have been or who are currently on the Board. Since the mandate to have consumer members on the Board we have had a physical therapist, educator and RNs on the Board and we currently have a physical therapist assistant, educator and chiropractor on the Board. Those holding any other healthcare license could not be considered for the consumer member position.

Section 3 – Under #2 - The Board of Massage does not support changing the word "may" to "shall" under inspections of massage establishments. This would require the Board to have all therapists/establishments inspected each year. There are currently over 700 licensed massage therapists in ND and this would be a very difficult task. The Board is required to do inspections and we administratively require at least 4 inspections in each quadrant of the state. We could change the number of required inspections internally, or administratively, and therefore if not able to inspect all establishments still be in compliance with our law.

Section 4 – Under #3d - The Board of Massage does not agree with eliminating continuing education requirements for licensure if a therapist has been licensed and practicing for a minimum of 15 consecutive years. Massage therapists want to be considered professional and to be professional you should always be looking for ways to improve your techniques, better serve your clients and to not become complacent. I personally do not know of any other profession that eliminates continuing education after a certain number of years in a profession.

All other section changes are similar to or the same as what the ND Board of Massage introduced in Senate Bill No. 2085 and heard on January 12th by the Industry, Business and Labor Committee where it received a 7-0 Do Pass vote and heard by the full Senate on January 14th and received a unanimous vote of 43-0.

I would like to thank you for your time and I would be happy to answer any questions you may have for me at this time.

MT Board Members – as of November 2014

State	# of Members	LMTs	Public	Professional/Other
Alabama	6	5	1	
Arizona	5	3	2	
Arkansas	7	6	1	
California	19			
Connecticut	5			Dept of Public Health
Delaware	7	4	3	
Georgia	5	4	1	
Hawaii	5	3	2	
Idaho	5	4	1	
Illinois	7	6	1	
Indiana	4	2	2	1 MT with 1 MT vacancy
Iowa	7	4	3	
Kentucky	7	5 (1 must own MT school)	2	
Louisiana	7	5	1	1 Physician
Maryland	11	6 Chiro; 3 LMT	2	
Massachusetts	7	5 ?	2 ?	2 vacancies
Michigan	11	7	4	
Mississippi	6	4	1	1 Physician
Missouri	7	6 – 1 is educator	1	
Montana	5	3	1	1 Health Care Provider
Nebraska	4	3	1	
Nevada	7	6 (divided by counties)		1 nonvoting advisory member
New Hampshire	3	3	0	
New Jersey	6			1 Professional
New Mexico	5	3	2	
New York	7	4		3 Physicians
North Carolina	7	5	1	1 Physician
North Dakota	5	3	2	
Ohio	7	7		2 Independent, 2 Educators, 2 at-large, 1 prof assoc member
Oregon	7	4	3 (1 is a health member)	
Pennsylvania		6	2	
Rhode Island				Not the correct link

South Carolina	5	4		1 vacancy
South Dakota	5	4	1	
Tennessee	7	5	2	
Texas				Advisory cmte list
Utah	5	3	1	1 vacancy
Virginia	5	4 – 1 is faculty	1	Under board of nursing
Washington	5	4	1	
Washington DC	4			Under dept of health -
West Virginia	5	3	1	1 physician
Wisconsin	7	6 (2 faculty)	1	3 vacancies

14 Boards have 5 members

5 Boards have 4 LMTs and 1 Consumer

7 Boards have 3 LMTs and 2 Consumers

At least 4 Boards state that at least one LMT must be an educator/own a school

At least 8 Boards have a position filled by a physician or healthcare provider

North Dakota Boards and Commissions

Memberships that include Public/Consumer Member

As of February 8, 2015

Board/Commission	Total # of Members	# Professional	# Public	Additional Info
Addiction Counseling Examiners	7	5 LAC (1 private pract)	2	
Athletic Trainers	5	3 ATCs	1	1 physician
Barber Examiners	3	3	0	
Chiropractic Examiners	6	3	2	1 public is physician
Clinical Laboratory Practice	7	1 CLS, 1 lab tech, 1 admin non-physican lab director	2	1 physician
Cosmetology	5	3		States 3 most be cosmetologists, doesn't state who other 2 are
Dental Examiners	7	5 dentists, 1 hygienist	1	
Hearing Aid Specialists	10	4 hearing aid specialists, 1 otolaryngologist, 3 audiologists	2	
Massage	5	3	2	
Medical Examiners	13	1 PA-C, 9 MDs, 1 DO	2	
Nursing	9	5 RNs, 1 APRN, 2 LPNs	1	
Occupational Therapy Practice	5	3 OTs, 1 OTA	1	
Physical Therapy	6	3 PTs,	1	2 physicians
Social Work Examiners	6	2 LSWs, 1 LCSW, 1 indep clinical social worker	2	

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North Dakota Legislative Branch

Bill Actions for SB 2085

Send me to Bill No. (9999):

HJ=House Journal; SJ=Senate Journal

Introduced by Industry, Business and Labor

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

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

Date	Chamber	Meeting Description	Journal
01/06	Senate	Introduced, first reading, referred Industry, Business and Labor Committee	SJ 30
01/12	Senate	Committee Hearing 10:45	
01/13	Senate	Reported back, do pass, place on calendar 7 0 0	SJ 84
01/14	Senate	Second reading, passed, yeas 43 nays 0	SJ 91
01/20	House	Received from Senate	HJ 186

[Back to top](#)

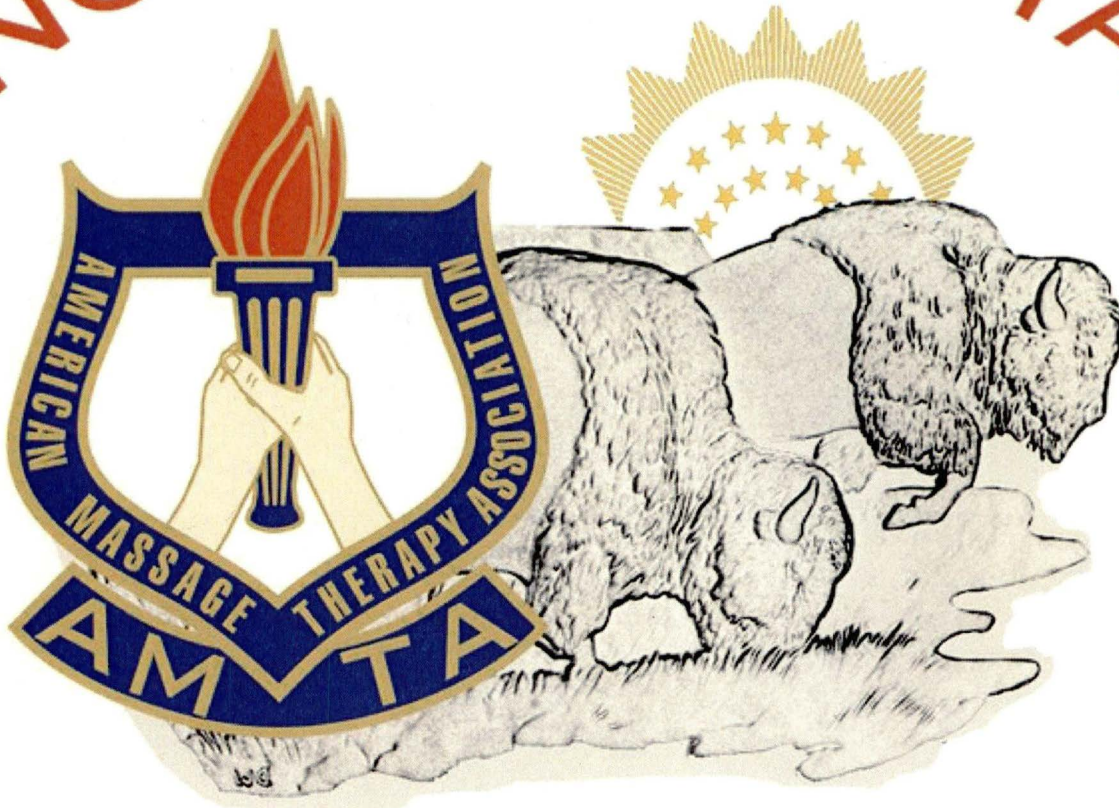
McGinley, Wendy

From: Karen Wojahn <k_wojahn@yahoo.com>
Sent: Wednesday, February 04, 2015 11:21 AM
To: Jon Simmons; Todd Salwey; Edward E. Erickson; McGinley, Wendy
Subject: Fw: AMTA Chapter News Alert

FYI

On Tuesday, February 3, 2015 10:37 PM, AMTA North Dakota Chapter <hansonv@msn.com> wrote:

NORTH DAKOTA



PEACE GARDEN STATE

Badland News

February 3, 201

●ar (Contact First Name),

The AMTA-North Dakota Chapter would like to inform you that bill 2085 has been presented before the Legislature concerning changes to our state law that have been approved by our North Dakota State Board. This bill has currently been approved in the Senate and is on its way to the House. A second bill, 2294, has now been presented before the Legislature, one that contains changes in the law that were not approved by the North Dakota State Board along with the changes that were previously presented and approved in the Senate. The National AMTA and the AMTA-North Dakota Chapter feel these additional changes proposed may be too vague in nature and may cause financial strain to the State Board's budget and possible loss of protection to our consumers. Your IMMEDIATE ACTION is asked. A link below has been provided for you to access these 2 bills. You can write a letter to your Senators, link below, and you can also contact your State Board, <http://www.ndboardofmassage.com/>, with further questions about bill 2294.

Yours in Health,

Carla Anderson
AMTA-ND Chapter President

To find your representative, click below:

<http://www.legis.nd.gov/assembly/64-2015/members/>

To see the status of the bills, click below:

<http://www.legis.nd.gov/lcn/council/billtracking/mainmenu.htm>

Upcoming Events

Spring Workshop
April 16 & 17, 2015
Madama Inn, Bismarck, ND
Registration

Additional Link

Senate Bill 2085

SB 2085: A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and section 43-25-08.1 of the North Dakota Century Code, relating to criminal history record checks for massage therapists; and to amend and reenact sections 43-25-05, 43-25-09, 43-25-10, 43-25-14, and 43-25-18 of the North Dakota Century Code, relating to massage therapist licensure.

Click the link below to see the full version of the proposed bill.

<http://www.legis.nd.gov/assembly/64-2015/documents/15-8037-01000.pdf?20150202195659>

Senate Bill 2294

SB 2294: A BILL for an Act to create and enact subdivision nn of subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks; to amend and reenact sections 43-25-05, 43-25-05.1, and 43-25-09, subsections 2 and 3 of section 43-25-10, section 43-25-14, and subsection 1 of section 43-25-18 of the North Dakota Century Code, relating to the governance of the board of massage and the regulation of massage therapists; to provide a penalty; to provide for application; and to declare an emergency.

Click the link below to see the full version of the proposed bill.

<http://www.legis.nd.gov/assembly/64-2015/documents/15-0913-01000.pdf?20150202195843>

Proposed Legislative Changes

The AMTA-ND Board members feel that Senate Bill 2085 more closely aligns with the interests and future vision of massage therapists. We feel Senate Bill 2294 may contain vague wording that could eventually prove harmful to our consumers. **Further the conflict between the two bills and how bill 2294 is being presented, could negatively impact both the ND State Massage Board, AMTA-ND members, and all ND massage LMT's as a whole.**

We ask that each therapist contact your senators to let them know how you feel about bill 2294.

Please click the link below to go to the Administrative codes for the ND Massage Board.

<http://www.legis.nd.gov/information/acdata/html/Title49.html>

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AMTA North Dakota Chapter | Hansonv@msn.com | Fargo | ND | 58103

My name is Robert Benson from Williston, ND. I am writing to encourage you to vote to do not pass **SB 2294**.

I have nearly 40 years of experience in healthcare and am currently licensed in ND as a massage therapist and a physical therapist. I have served, in executive positions for Chapters of the American Massage Therapy Association and American Physical Therapy Association. I have previously served two terms on the ND Board of Massage holding positions as VP and interim President.

I am currently employed in academia by Williston State College as the Chair of the Department of Health & Wellness. WSC is one of the few schools to offer massage therapy education in the State. The views I express here are not those of the College or the North Dakota University System and I do not represent them. These are my own personal views on this bill.

The ND Board of Massage held a series of open forums which were attending by officers and members of the professional association and public to provide input as to what changes were needed to the Massage Practice Act. **SB2085** was drafted and unanimously approved by the senate and contained the approved changes. As far as I know, no additional public forums were held to further discuss these additional proposed changes included in SB2294. Here are two examples that I feel make this proposed law unacceptable.

Regarding section 43-25-05.1 Board of Massage – Terms:

This bill would change the Board membership and apply restrictive stipulations on whom the Governor could appoint. There is no evidence to warrant or support a need for a change. I am particularly concerned about reducing public member representation on the Board and their ability to hold office. How is the Massage Board going to know what the public needs and issues are, if they don't have actively involved public members? In addition there are terms presented in this section such as "Actively Practiced", "Affiliated", "Fiduciary Obligation" and "Financial Interest", but no definition as to what these terms mean. Does actively practiced mean that you have earned income from performing massage? How much income? Does not being affiliated with a massage school mean you have never received any services there or never employed there? I don't feel it is appropriate to not have definitions included as part of the bill. If the Governor feels Board composition is an issue, he already has the authority to control Board membership. With its current composition of 3 massage therapists and 2 public members, the massage therapists still have a voting majority.

Regarding 43-25-09.3.d Continuing education

Education is the cornerstone for competent practice in any field. I am very concerned about allowing any massage therapist, no matter how long they have been in the field, to no longer fulfill continuing education. The argument that the courses become redundant, means the person is not seeking out the proper courses. Many individuals will attend a course just because it is being held near to their home, not because of the topic. I understand the financial end of things and it does cost money. On the other hand, I entered a profession knowing I have an obligation to my clients. Spending money to enhance skills is part of any profession. SB2085 already proposes to reduce the number of continuing education hours. In addition over half of these hours could be achieved through online classes and CPR renewal, which can ease the financial burden.

Thank you for your time and thoughtful consideration to this matter.



FOCUS ON

Developed by Alliance for Continuing Education
in the Health Professions

The Benefit of Continuing Education (CE) to Patients and the Public

Every day, media outlets report research findings about optimal health prevention, diagnosis and treatment methods. Medical discoveries offer hope to patients and the public for improved health care outcomes. However, despite the wealth of existing knowledge and the continuous advances in medicine, gaps persist between optimal care and the care that is provided in many health care settings.^{1, 2} Continuing Education (CE) for healthcare providers helps bridge these gaps.

What is CE?

After completing the traditional education and training pathway for a health care profession, health care providers engage in CE activities to stay up-to-date and rapidly adopt proven medical advances.

Before creating a CE activity, educators and clinicians work together to identify gaps in patient care and outcomes, determine why these gaps exist, then design education that will address the causes of the gaps. By sifting through mountains of existing and emerging data, and then presenting educational content based upon strong scientific evidence, CE professionals improve clinical practice, patient care and outcomes.

Why is CE important to health care and patient outcomes?

CE has been proven effective at improving patient outcomes and saving lives.^{3,4} The Institute for Healthcare Improvement reports that “a key factor in closing the gap between best practice and common practice is the ability of health care providers and their organizations to rapidly spread innovations and new ideas.”⁵ CE is a vehicle for spreading best practices about how to attain improved outcomes.

It takes an average of 17 years for new research submitted for publication to be broadly accepted in clinical practice.⁶ The strength of supporting scientific evidence, the availability and cost of new and alternative therapies, the impact of laws and regulations, and the need for training must all be taken into consideration before medical advances become common practice. CE accelerates this process by fostering the presentation of data that have been examined, evaluated and synthesized for the busy practitioner.

For example, since the year 2000, deaths from coronary artery disease have been reduced by nearly 40%.⁷ This reduction is due to numerous advances: new drugs (such as the statins that lower cholesterol levels); new technologies (such as drug-eluting stents that keep coronary arteries free of plaque), improved processes (such as the new protocols for heart attacks that result in faster, more effective treatment); and a greater emphasis on prevention (by controlling blood pressure, weight, and cholesterol levels). All of these advances were communicated by a network of organizations providing CE to health care professionals such as physicians, physician assistants, nurses, nurse practitioners, technologists and others.

Health care professionals committed to lifelong learning take advantage of CE opportunities provided at national and local meetings, local hospitals and medical centers, and through online, print and other forms of media. State licensure boards, certification boards, and other health care organizations understand the importance of CE in the delivery of quality care and encourage, or sometimes require, regular participation in CE activities.

Call to Action

The quality of individual patient care and general public health are improved by the implementation of evidence-based medicine. CE ensures that the best evidence is known, understood and practiced by health care professionals.

Support quality patient care – Support CE.



FOCUS ON

Developed by Alliance for Continuing Education
in the Health Professions

The Benefit of Continuing Education (CE) to Patients and the Public

References

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- ²Health Professions Education: A Bridge to Quality (2003). Committee on Health Professions Education Summit, Institute of Medicine.
- ³Marinopoulos Spyridon S, Dorman Todd, Ratanawongsa Neda, Wilson Lisa M, Ashar Bimal H., Magaziner Jeffrey L, Miller Redonda G, Thomas Patricia A, Prokopowicz Gregory P, Qayyum Rehan, Bass Eric B. AHRQ. Effectiveness of Continuing Medical Education. 1-560, Jan 1 2007.
- ⁴Kiessling A, Lewitt M, Henriksson P. Case-based training of evidence-based clinical practice in primary care and decreased mortality in patients with coronary heart disease. Ann Fam Med. 2011; 9(3)211–218.
- ⁵Massoud MR, Nielsen GA, Nolan K, Schall MW, Sevin C. A Framework for Spread: From Local Improvements to System-Wide Change. IHI Innovation Series white paper. Cambridge, MA: Institute for Healthcare Improvement; 2006. (Available on www.ihl.org.)
- ⁶Trochim, W. (2010). Translation Won't Happen Without Dissemination and Implementation: Some Measurement and Evaluation Issues. Keynote address at the 3rd Annual NIH Conference on the Science of Dissemination and Implementation, Bethesda, MD, March 16, 2010. <http://www.socialresearchmethods.net/Presentations/Presentations.htm> Accessed 05/07/2012.
- ⁷Peck, Peggy and Cox, Lauren. The Top 10 Medical Advances of the Decade. ABC News Medical Unit in Collaboration with MedPage Today. Dec. 17, 2009. Accessed 05/08/2012 at <http://abcnews.go.com/Health/Decade/genome-hormones-top-10-medical-advances-decade/story?id=9356853>.

About the Alliance

The Alliance for Continuing Education in the Health Professions (ACEHP) is a community dedicated to its mission of accelerating excellence in healthcare performance of all health profession educators through education, advocacy and collaboration.

<http://www.acehp.org>

82-004 INSPECTIONS: All massage therapy establishments will receive an initial and thereafter, a routine inspection. The criteria for inspection required by the Board and Department is set forth below:

1. Initial Self-Evaluation Inspection: Under 172 NAC 82-003.01, the applicant must conduct a self-evaluation inspection prior to the proposed opening date of the establishment.
2. Initial On-Site Inspection: The Board and/or Department will conduct an on-site inspection within 90 days following issuance of an initial establishment license. The inspections are limited to ascertaining whether:
 - a. All massage therapists working on the premises are properly licensed;
 - b. The equipment and sanitation requirements in 172 NAC 82-004 are met;
 - c. The physical structure requirements in 172 NAC 82-004 are met; and
 - d. The duties of the massage therapist and manager and/or owner in 172 NAC 82-004 and 82-006 are met.
3. Routine Inspection: A routine inspection will be conducted to assure compliance with 172 NAC 82-004.01 and 82-004.02. The inspection will be conducted by the Board and/or Department.
 - a. The inspection will occur at least one time every 4 years.
 - b. The inspection is limited to ascertaining whether:
 - (1) All massage therapists working on the premises are properly licensed;
 - (2) The equipment and sanitation requirements in 172 NAC 82-004 are met;
 - (3) The physical structure requirements in 172 NAC 82-004 are met; and
 - (4) The duties of the massage therapist and manager and/or owner in 172 NAC 82-004 and 82-006 are met.

82-004.01 Structure, Equipment, and Sanitation: The massage therapy establishment must have the equipment necessary to provide massage therapy. This equipment must be clean, well-maintained, and in good repair.

1. Physical Structure: A massage therapy establishment must have a clearly identifiable location; each massage therapy establishment can be free-standing or part of an existing structure. The owner must ensure that the establishment is well ventilated and kept in a clean, orderly, and sanitary condition at all times.
 - a. All rooms must have adequate lighting and ventilation;
 - b. Each establishment must have an area that can be screened from public view for customers requesting privacy; and
 - c. Each room where massage therapy services are provided must have an EPA registered disinfectant that is proven effective against HIV-1, or Hepatitis B, or is a Tuberculocidal, and have liquid soap and water or an instant sanitizer;

[Home](#) » [Statutes](#) » [Codified Laws](#) »

[Printer Friendly](#)

36-35-20. Investigation of complaints--Inspections. The board shall receive and may investigate any complaint filed with the board alleging that any licensed massage therapist has violated the requirements of this chapter. The board may inspect the place of business of any person with a license issued pursuant to this chapter named in a complaint pursuant to this section during normal business hours or upon written notice.

Source: SL 2005, ch 206, § 20; SL 2013, ch 184, § 14.

[Chapter 36-35](#)

Greetings to the Committee from Brandi Malarkey, licensed massage therapist in ND, regarding SENATE BILL NO. 2294

Contact Information: Brandi Malarkey
License #989
3138 Edgewood Dr. N.
Fargo, ND 58102
701-429-4849
kneadabreak@gmail.com

There are many different issues covered in bill #2294. Some of which I agree with, and others which I am very opposed to. To simplify, I have tried to summarize my main points as follows.

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

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

Three

a. Four members of the members of the board must be massage therapists who are licensed in this state and actively practiced massage therapy in this state for at least three consecutive years immediately preceding appointment to the board. To remain qualified to serve as a massage therapist member of the board, the massage therapist member shall continue to actively practice massage therapy during incumbency on the board. The governor shall appoint the massage therapist members must be appointed for three years four-year terms, staggered so that the term of one member expires each year. Two additional members, who may not be

b. One member of the board must be a consumer member. The governor shall appoint the consumer member for a two-year term. The consumer member may not hold an office on the board. The consumer member may not:

- (1) Be or ever have been a massage therapists or therapist;**
- (2) Be an immediate family members member of a massage therapist**
- (3) Be or ever have been an owner of or affiliated with any massage school;**
- (4) Be or ever have been a member of any other health care licensing board or commission;**
- (5) Have a fiduciary obligation to a facility rendering health care services; or**
- (6) Have a financial interest in the rendering of health services.**

As a massage therapist who has made a point of attending Board of Massage meetings while not serving on the board, I am strongly opposed to many of the changes suggested in this section. While I know there is a common thought that as it is a massage board, that it should be only massage therapists serving on it, having watched the interactions of the board, I feel this is very short sighted. While I do support keeping the majority of the board massage therapists—and feel there would be strongly negative ramifications if that were not the case—I also feel that both the skills and the perspective brought by the consumer members is invaluable. Time and again I have seen the questions of the consumer members, and the perspective shared with them,

change the understanding of an entire issue brought before the board. I feel that this is a positive benefit of the consumer members, and I would hate to see that decreased.

While the proposed changes would still keep one consumer member, decreasing that benefit by half, it also adds several other restrictions to the consumer member, which frankly confuse me. Deliberately excluding someone affiliated with a massage school, which is again an unique and valuable perspective, as well as deliberately excluding anyone from a health related profession, seems restrictive without purpose. I have seen many instances where having a different health professional on the massage board has helped with a fuller understanding of issues being discussed, and do not see the value in excluding a large pool of professionals from the board—which would include chiropractors, nurses, doctors, pharmacists, and an entire host of other North Dakota Professionals. In addition, the wording change of the "actively practicing massage therapy during incumbency on the board" from "licensed in the state" is too vague. I believe that the intent of this passage is to prevent massage therapists from serving on the board who are not currently practicing, but still keeping up their licenses. While I do not oppose that idea, I do know that the idea of what "actively practicing" entails varies from person to person. For example, massage therapists that are instructors, who work with massage every day, but do not take clients are considered by some to be active, and by others to be non-active because the client piece is how they define active.

Returning to the consumer member, there is a clause stating that they should not hold an office. I am unclear about the purpose of this clause. The board office positions should not be restricted to a profession, but rather to the person on the board who best suits the job. It seems foolish, for example, if the consumer member was an accountant, to refrain them from being a treasurer, or an executive assistant from being a secretary. The board votes as a group who should take those positions, and it is completely within their power to ensure the positions go to whomever they like, with a majority vote.

In short, I feel the entirety of these changes to be unnecessarily restrictive. The purpose of the board is not to practice massage, but to deal with issues that arise related to massage. This means things like licensing, complaints, legal issues with practicing without a license and human trafficking on the rise, and a host of other endeavors. I feel a range of skills and perspective is beneficial to those tasks, and should be distributed to the members best suited to do them, regardless of profession.

SECTION 4.AMENDMENT

Section 43-25-09 of the North Dakota Century Code is amended and reenacted as follows:

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

3. ~~Continuing~~ Except as otherwise provided in this subsection, continuing education of at least ~~thirty-two~~ twenty-four continuing education hours, or equivalent college credits, three hours of which must be obtained in ethics courses, submitted every two years is a further requirement for renewal of the license. The board may accept continuing education attained by remote means. No more than ~~twelve~~ nine hours of a licensee's renewal hours may be by remote means. To qualify as continuing education, the remote education must be board-approved for content and suitability.

c. The board may grant an individual waiver based on health issues or other good cause the board deems sufficient.

d. A massage therapist who has been practicing for compensation and licensed for a minimum of fifteen consecutive years qualifies for license renewal with no additional continuing education required.

I completely approve of the proposed change from 32 hours of continuing education every two years, to 24. As you can see from the chart below, North Dakota requires the most continuing education in the entire nation. While the range of requirements across the country varies widely from none at all, to our excessive 32, the clearest trend visible is 24 or 25 every two years. In the effort to bring the massage therapy profession to a level playing field across states, I feel this is an excellent step/change.

I am mildly opposed to the ethics requirement due to the fact that there are no providers within North Dakota who provide ethics classes, however the Federation of Massage Therapy Boards found in their survey that they were to be recommended, and due to the recent influx of issues the ND Massage Board has had to deal with, I understand this change.

I approve of giving the Board the ability to make individual waivers when necessary. I have faith the board would not grant them lightly, and I have seen numerous cases where circumstances were not reasonable (and example being the Minot flood).

On the issue of continuing education after 15 years: As a provider of continuing education I should oppose this concept. I actually don't, and think that in many ways requiring the continuing education at that point is unnecessary. However, I do have a mild objection to the wording, as the "compensation" disturbs me. As a practicing massage therapist who is transitioning to more charity work, and less work for financial compensation, I know there are various ways to interpret compensation, nor am I clear what would be required to document the continuous compensation issue. However, overall, I would say therapists practicing for this length of time tend to fall into two camps; those who will continue to take continuing education regardless of requirement if they feel it is of added value and interest to them, and those who will take it because it is required, but get no value from the experience at all.

Continuing Education Across States (*note, this information is from 2011)

Alabama	Alaska	Arizona	Arkansas	California
16/biennially		25/biennially	18/biennially	none
Colorado	Connecticut	Delaware	Florida	Georgia
only if license expire over 24/4years		24/biennially (MT), 12 biennial	24 biennially	24/biennially
Hawaii	Idaho	Illinois	Indiana	Iowa
N		24/biennially	N/A	24/biennially
Kansas	Kentucky	Louisiana	Maine	Maryland
	24/biennially	12 yearly	None	24/biennially
Massachusetts	Michigan	Minnesota	Mississippi	Missouri
none (looking into adding : in process			12 yearly	12 biennially
Montana	Nebraska	Nevada	New Jersey	New Hampshire
12 biennially	24/biennially	12 yr (36 carry over 3 years)	No	12 biennially
New Mexico	New York	North Carolina	North Dakota	Ohio
16 biennially	None	24/biennially	32/biennially	N/A
Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina
	25/biennially	24/biennially	None	12/biennially
South Dakota	Tennessee	Texas	Utah	Vermont
8/biennially	25/biennially	12/biennially	N/A	
Virginia	Washington	West Virginia	Wisconsin	Wyoming
24 OR Nat. cert/biennially	24/biennially	24/biennially	No	

to bel 8#

	Alabama	Alaska	Arizona	Arkansas	California	Colorado	Connecticut	Delaware
BOARD MEMBERS	7		5	7	16	program staff within their office	Dept. of Public Health	7
MTs	5		3	6	n/a	N/A	N/A	2 & 2
Consumer	2		2	1	n/a	N/A	N/A	4
	Florida	Georgia	Hawaii	Idaho	Illinois	Indiana	Iowa	Kansas
BOARD MEMBERS	7	5	5		7	5	7	
MTs	5	4	3		6 (two rep. school/pub & priv)	3	4	
Consumer	2	1	2		1	2	3	
	Kentucky	Louisiana	Maine	Maryland	Massachusetts	Michigan	Minnesota	Mississippi
BOARD MEMBERS	7	7	program, no board	11	3	11		5
MTs	5 (1 own or direct training program)	4	N/A	6 (Chiro), 3 MT	n/a	7		3
Consumer	2	3	N/A	2	n/a	4		1 + 1 health prof
	Missouri	Montana	Nebraska	Nevada	New Jersey	New Hampshire	New Mexico	New York
BOARD MEMBERS	7	5	4	7 + advisory	6	advisory (no recs)(not elect by gov)	5	(3 members serve multiple professions)
MTs	6 (one non-voting-- MT education)	3	3	6	6	n/a	3	N/A
Consumer	1	1 + 1 lic. Health care	1	1	0	n/a	2	N/A
	North Carolina	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina
BOARD MEMBERS	7	5	N/A		7	8	Director	5
MTs	5	3	3 advisory		4	6	N/A	5
Consumer	1 consumer, 1 physician	2	N/A		3	2	N/A	0
	South Dakota	Tennessee	Texas	Utah	Vermont	Virginia	Washington	West Virginia
BOARD MEMBERS	5	7	No	5		Nursing	5	5
MTs	4	5	N/a	4		N/A	4	3
Consumer	1	4	N/a	1		N/A	1	2
	Wisconsin	Wyoming						
BOARD MEMBERS	7							
MTs								

#2 pg 5

Ladies and Gentlemen,

Thank you for giving me the opportunity to testify here today.

My name is Carla Anderson and I have been a Licensed Massage Therapist in the state of North Dakota for almost 19 years. I am currently also the President of the American Massage Therapy Association-North Dakota Chapter, with our National Office being located in Evanston, IL.

I come to you today because our local chapter members, myself included, have some concerns over the proposed bill 2294.

Page 1, line 15, section 43-25-05. The reason behind the proposed restructure of the North Dakota Board of Massage is the desire to put more control of the board into Licensed Massage Therapists hands. Over the past year, I feel I have created a good working relationship with the board members by attending all the meetings. Therefore, I have witnessed how they are currently functioning. I feel that since this is a board created to protect the consumer, it should consist of consumer members along with the LMT's. We do not oppose the board becoming restructured, but maybe it would benefit by enhancing it instead. Therefore, we think it may be better for the public to leave the board as is with 3 Licensed Massage Therapists and 2 Consumer Members. If the person(s) whom submitted this proposal still feel they would like the LMT's to have more control, maybe they can bring the proposal back and look at adding 2 Licensed Massage Therapists to the board, whom would then hold 71% of the board's votes rather than the 60% that they have now.

Page 2, line 11, #4. The proposed rules that the consumer member(s) cannot hold are extensive and we agree on most. We would suggest removing, "ever have been", from proposed rule #4.

Page 2, line 30, section 43-25-05.1, #2. It has been suggested that changing the word may to shall will create a situation where the State Board will be required to inspect every establishment every year. The information on the State Boards website indicates that we currently have 721 LMT's licensed in ND. We feel this isn't necessary and could possibly create the State Board's future budget to decline to a point that would require licensure to be increased again affecting all LMT's in the state. A solution would be to leave it alone, reword the sentence or maybe take it out of the law and put it into the Administrative Rules.

Page 4, line 15, section 43-25-09, #3d. We do not support any Licensed Massage Therapist not required to receive education. This sentence is too vague and could create situations from Therapists coming from other states and saying they qualify for this exemption and there is no proof. Continuing education standards for our Licensed Massage Therapists in North Dakota are high and they should remain that way. LMT's want to be respected and we want to be known as professionals. Taking our standards backwards could affect how LMT's are respected and we would have to fight harder to keep our profession, professional. According to the AMTA National Office, there is not one regulated state, out of 45, that offers their veteran massage therapists an exemption such as this one being proposed. I can think of 4 LMT's that have practiced longer than 15 years, that have harmed individuals from the public. After that many years of practice and knowing they received continuing education for each of those years, how many more would it have been if the exemption had already existed? The public is why this board exists and we must keep that in mind. Would you want to end up in emergency gall bladder surgery only to find out after the surgery, the Dr. had cut you wide open to take out your gall bladder rather than using laparoscopic equipment because he/she didn't need to obtain continuing education for the last 20 years? And finally, my own personal story. Now that I am going into my 19th year of massage, I think back on the last 3 years and what I would not have learned had I of not had to continue my education. I can tell

you, the last 3 years has added new modalities to my private practice, new friends, networking with others, leadership abilities, and new clients.

Therefore, that is why the AMTA members and myself ask that you oppose this bill and we propose that the author(s) look at the suggestions further and possibly resubmit it during the next legislative session.

Thank you

Opposition to bill 2294

Good morning Chairman Dever and members of the Government and Veterans Affairs Committee. My name is Dr. Todd Salwey and I am one of the two consumer members on the ND State Board of Massage. I am here to explain why I am in opposition to Senate bill 2294.

Section 2 - The issue of board member background or composition

- a. The terms and composition of the board members- the board is currently made up of 2 consumer members and 3 LMTs. A consumer member term is 2 years and can serve up to 6 consecutive years; a LMT board member term is 3 years and can serve up to 6 consecutive years. This was instituted by legislature several years ago. I believe the consumer members add a valuable resource and different perspective on issues that have and will continue to arise. Consumer members can add a voice or reason when needed.
- b. Other states with five member boards are similar in composition. Forty-two other states have member boards. Of the forty-two, fourteen boards are 5 member boards like North Dakota. Of the fourteen that have 5 member boards; five boards have 4 LMTs and 1 public, 7 have 3 LMTs and 2 public members (like ND), one board has no LMTs or public members and is run by the Dept. of Health, one board has 3 LMTs, 1 public member and 1 physician. At least four of the state boards require at least 1 LMT board member to be an educator/own a school. Multiple boards have a position filled by a physician.
- c. The way bill 2294 is structured, a consumer member would be restricted if they have ever been associated or currently work at or own a massage school. Who better to inform and train future LMTs than a board member that knows the laws?
- d. The bill 2294 would restrict a consumer board member from being from any health care area field. The governor has a history of appointing doctors, nurses and other healthcare professionals and to rely on their expertise to help the massage board. This bill would eliminate that valuable input and expertise. The way this bill is written, it states that a doctor, nurse or any professional requires licensure is not qualified to sit on this board, but a homeless person is. Does that make any sense?

Section 3 - Changing the language for periodic inspections from "may" to "shall" would have negative connotations. Using the word "shall" would require the board to an impossible task. The word "may" leaves open the possibility of inspecting establishments as needed. Currently required are 4 inspections in each quadrant. Our records show that substantially more have been inspected each year. In my experience in performing these inspections, I have received a great response from the LMTs being inspected. I am able to talk to them one on one and find out and any concerns or questions they may have while talking directly to a board member. I feel it has left a positive mindset knowing they can contact the board in the future and not be afraid to ask questions.

Section 4 - Eliminating continuing education hours an LMT who has 15 years of experience would be a mistake. LMTs have the opportunity to better themselves and their profession by taking CEUs. It is a standard of any profession to take CEUs on a yearly or biyearly basis. It allows exposure to new material that may affect patient population or sharpen current skills. By discontinuing education, it would allow an LMT to become complacent and routine. There are many areas of massage expertise that can be explored. Continuing education should not be redundant and the same classes should not be taken year after year. It is up to the LMT to take some responsibility and find something new to challenge themselves and become better. As the old saying goes "you can lead a horse to water, but you can't make them drink." By requiring CEUs, I would hope an LMT would want to find something that interest them. I cannot be sure, but I don't know of any profession that eliminates CEUs after a certain amount of time for licensure. This proposal in this bill is nothing more than self-serving for a few individuals who no longer wish to make CEUs themselves.

All of these issues were brought from committee meetings to look at the current law. The committee meetings were open to the public and members of the ATMA were present. These issues were discussed at the board and comprised into bill 2085. I feel this is a power play against the board to gain control of the board in order to make changes to law and for a personal agenda and personal gain. I am saddened by the course of action they have taken and they have disgraced their profession and the great state of North Dakota. They have wasted the time of this committee for personal gain. The North Dakota Board of Massage was established to protect the public from LMTs taking advantage of people in vulnerable situations. I feel by moving this bill forward, that the massage board and the profession would be weakened.



#10 pg 3
CELEBRATING OVER
50 YEARS!

February 12, 2015

Dear Government and Veterans Affairs Committee:

My name is Maggie Aslakson and I am currently the Director of Operations serving all three Josef's School of Hair Design locations. I am writing this letter in regards to my personal opposition and the schools opposition for Senate Bill No. 2294. As the Director of Operations, I am concerned about the possible detrimental outcomes that would come along with passing Senate Bill No. 2294.

I speak on behalf of the school that continuing education is vital to any career, specifically massage therapy, and taking away continuing education would be detrimental. With advancements in healthcare and treatment it is crucial that a massage therapist be knowledgeable at all times. Please consider the ramifications of eliminating continuing education after 15 years of experience.

Additionally, Josef's is concerned about the elimination of an education associate with a massage school or professional healthcare facility on the Board. This is our opportunity as educators to have a voice, to understand current issues in the market and be able to educate our student's appropriately. Eliminating this position would reduce communication between the board and current educators, which in our opinion is vital to the future of this profession in North Dakota.

Lastly, this bill would require the board to inspect all massage establishments. Passing this bill would take additional financial resources that does not seem necessary or a responsible way to spend funding.

Altogether, not only do we oppose this bill, but we have been told that the AMTA and FSMTB have also released a statement opposing the bill.

Please feel to contact me with any comments, questions, or concerns.

Regards,

Maggie Aslakson
Director of Operations
Josef's School of Hair Design

627 NP Avenue • Fargo, ND 58102 • 701.235.9910
4501 15th Avenue SW • Fargo, ND 58103 • 701.478.6292
2011 South Washington • Grand Forks, ND 58201 • 701.772.2728

www.jsohd.com

2/20

#1

PROPOSED AMENDMENTS TO SB 2294

Page 1, line 6 after "application;" insert "to provide an effective date"

Page 4 remove lines 15-17

Page 6, after line 5 insert:

"SECTION 10. EFFECTIVE DATE. This Act becomes effective on July 1, 2015."

Renumber accordingly

March 17, 2015

Good morning Chairman Keiser and committee members:

My name is Gail Hovden and I am in favor of SB2294. I am here representing myself, but have brought a number of letters of support from many Licensed Massage Therapists (LMT's) practicing in North Dakota. I have been a self-employed practicing massage therapist for 26 years in Bismarck. I have volunteered my time and services over the years with different local organizations two of which are the ND chapter of American Massage Therapy Association and the ND State Board of Massage. I have had the opportunity to hold office on these boards, and other committees as well. As such, I have had the opportunity to speak with numerous LMT's and the public about their concerns of the massage industry, regulations, etc. Questions like 'Why is it so difficult to get licensed in your state?', 'Why did the relicensing fee double?', 'How much longer do I have to take CEU's?'. After many hours of listening and discussion, I feel that SB2294 addresses some of these concerns.

Page 1:

Line 15 - The ND massage board is comprised of a five member board, three LMT's and two public members. Currently only two members are practicing LMT's. The third LMT is not a practicing LMT but a massage teacher and also a physical therapist assistant. Having a massage teacher on the board is not only a conflict of interest, but can be an income generating venue as well. As a member of the board, a teacher of massage reviews applicants' transcripts to see if they qualify for licensure, then can check students' transcripts and decide if they then need more hours and set up a teach-out plan. There has been an LMT teacher/physical therapist on this board since 2006, approving teach-out plans and assisting in proposed changes to ND law regarding class requirements. The board's job is not to set up educational plans for individuals to get licensed, it is up to the schools to do so. This is another example of inappropriate spending by this board.

Currently, no practicing LMT holds office on this board, and no LMT has held the office of president since 2004. The board president is a public member who has at times does not posted meeting times until a few days before the meetings are held, or does not post important issues such as upcoming legislation, or current minutes on the website. He maintains the website for a fee when we have an office administrator who should be doing this as it is part of their job description. Vice president is the teacher I mentioned earlier. The secretary-treasurer position is held by a public member who is a chiropractor. He also teaches at a massage school in Fargo.

Massage therapy is not a medical field in North Dakota, although in some states it is considered medical. In our state massage therapists are prohibited from diagnosing, prescribing or treating, unless they possess other medical credentials that permit them to do so. ATTACHED IS A LIST OF MEDICAL PROFESSIONS AND OTHER HEALTH

CARE OCCUPATIONS THAT ARE RELATED BUT NOT MEDICAL. Health care workers from medical professions may try to impose regulations on massage therapists BASED UPON THEIR PROFESSIONAL LENS OR BIASES that go beyond the scope of massage practice. Therefore, if a member of our board is affiliated with another health care profession, that member should ALSO be an ACTIVELY PRACTICING massage therapist. There are plenty of massage therapists who are also nurses, CNA'S or physical therapists.

This board has not had a formal budget for years. It is our licensing fees that fund board activities and I feel that having four practicing LMT's on this board would bring a more conservative approach to board spending.

Having four actively practicing LMT's would facilitate better communication and understanding in what they feel is important for the massage community and the public. LMT's have training in ethics that is specific to the massage setting, boundary issues, and other matters that might occur in the form of complaints and concerns presented to the board. Public members should not be able to over-ride the expertise LMT's bring to the board.

Practicing LMT's have a better understanding of the financial obstacles LMT's face that are intrinsic to the profession. A public member should have no financial interest relating to massage if that individual is to be charged with representing the public only. Representing any interests of massage therapists or related businesses is a conflict of interest.

Page 2:

Line 15 – Reflects change needed in number of years per term to prevent term overlap.

Line 30 – Requires inspections. Over the last 10 – 12 years inspections were done very sporadically. In 2010, a request was made to double our licensing renewal fees since money available to the board was low. Legislation for the fee increase was passed with the stipulation that inspections would be done on a more regular basis. The board then voted to do three inspections per quadrant within the state – a total of 12 per year. ND has 726 therapists. If we minimally do 12 per year, it would take 60 years before each one is inspected. At that rate, most LMT's will never be inspected. In fact, there are many LMT's who have said that they have never been inspected during their career. If the board's primary objective is public safety, shouldn't there be a greater number of inspections performed?

Page 3:

Line 20 - Although I would like to see even less required ceu's, lowering the hours from 32 to 24 hours every two years is a step in the right direction. Not only are LMT's paying \$100 in annual fees, but the expense of the excessive required ceu's can cost on

average up to \$800 or more per year. I also feel having 3 required ceu's in ethics could get a bit repetative. I am very Thankful I've been able to support my family, and be a service to others in my 26 yrs. practicing massage, when the average life span I've read is 5-8 yrs. I have had to cut back now as this work is very physical and I'm not getting any younger, :) and after taking 422 ceu's in my career, I wish I didn't have to take or pay for any anymore .

THANK YOU Gail Hovden LMT

Massage therapy is a healthcare related field but it is not a medical field and not covered by medical insurance in North Dakota.

Our scope of practice prohibits us from diagnosing, prescribing, or treating.

Medical and covered by insurance

Physicians
Nurses
Physical Therapists
Respiratory Therapists
Lab technicians
Nursing home care
Dentists
Pharmacist's
Radiologists
Osteopaths
Psychiatrists
Naturopaths

Wellness related but not medical

Massage therapists
Yoga
Fitness and Exercise
General Nutrition
Meditation
Energy work
Lifestyle consultants
Herbal and traditional remedies
Reflexologists

I am writing this letter in support of Senate Bill No. 2294.

I strongly support changing the board of massage to consist of five members with four of the members to be licensed in this state and actively practicing massage therapy for at least three consecutive years immediately preceding appointment to the board.

I feel having four practicing massage therapists on the board is crucial to make important decisions regarding our profession. I also support having only currently practicing massage therapists on the board as we know the day to day challenges of maintaining a successful and ethical business.

I also support changing the requirements for licensed massage therapists who have been practicing for fifteen consecutive years to no additional continuing education required. The majority of us in those shoes constantly research and learn new material on our own anyway.

I would like to urge the senate to pass this bill as it is written.

Thank-you

Karen Lang LMT

November 13, 2014

NeuroMuscular Therapy and Wellness
133 Highway 8 South
Hettinger, N.D. 58639

To Whom It May Concern:

I have been a Licensed Massage Therapist in North Dakota for 34 years and for 2 years prior in South Dakota. I continue to maintain a full time practice. After this many years of education and practical experience I do not feel the continuing education hours should be mandatory. I would still attend classes that I might be particularly interested in. I feel after 15 years the continuing education could be waived for license renewal without there being any professional ramifications.

Also, I support the North Dakota Board of Massage being comprised of 4 Licensed Massage Therapists and 1 consumer member.

I appreciate your time and consideration to these issues.

Respectfully,



Mary J Eggebo, LMT

After needing a career change,
I became a massage therapist in 1982.
In the Dec of 2011 due to health reasons I am
unable to do massage therapy. I have
kept my massage license, but due to
needing to have credit hours for education,
I have let my license lapse.

It would be a good benefit to
myself and other therapists that
credit hours are no longer required
after fifteen years of work.

The enclosed legislation is an
excellent bill very well presented to
meet the needs of present and future
therapists.

Carol Hattel

January 16, 2015

I am in favor of the bill supporting that the North Dakota State Board of Massage be made up of four Licensed Massage Therapists and only one consumer member.

I am in favor of the bill supporting that after 15 years of being a Licensed Massage Therapist you should not have to continue doing continuing education every year.

Kristin Helland, LMT #1084


Kristin Helland, LMT #1084

Mandan, ND

January 16, 2015

I am in favor of the bill supporting that the North Dakota State Board of Massage be made up of four Licensed Massage Therapists and only one consumer member.

I am in favor of the bill supporting that after 15 years of being a Licensed Massage Therapist you should not have to continue doing continuing education every year.


Jennifer Gensburg, LMT #1070

Bismarck, ND

1-22-2015

I have been a licensed Massage therapist in North Dakota since 1975. I am in support of Bill #SB 2294. I thank you for your consideration of this Bill.

Judy Alheiser
238-9th Street East
Dickinson, N. D. 58601

Jan. 26, 2015

I am a ND licensed
massage therapist and
I am supporting
Measure 2294.

I am having Gayle Hovden
represent me.

Kay Erickson LMT #177

January 23, 2015

Attention: Legislative Assembly of North Dakota

To Whom It May Concern:

My Name is, Dralinn J. Koenig, LMT. I have been a Licensed Massage Therapist, at my business of Guided Hands Therapeutic Massage, in Bismarck, ND, practicing for coming up on 22 years.

I am writing to inform you that I am in support of SB NO. 2294.

Sincerely,

Dralinn J. Koenig, LMT

Dralinn J. Koenig, LMT

CenturyLink Webmail**hands4u@q.com**

± Font Size ±

senate bill-2294 Thank you Gail!!

From : ssilkman@ndsupernet.com

Thu, Jan 29, 2015 01:31 AM

Subject : senate bill-2294 Thank you Gail!!**To :** hands4u@q.com

to whom it may concern, I have been a message therapist since 1983 and I am very much in favor of senate bill 2294! I would like to be able to choose, at this point in my career, to attend the conventions if I so desire! thank you for your support of this bill! Sincerely, Sharon Silkman, 135 hwy 8 south, Hettinger, N.D.

CenturyLink Webmail

hands4u@q.com

± Font Size ±

Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

From : Virgil Vetter <virgilvetter5@gmail.com>

Tue, Jan 27, 2015 11:44 AM

Subject : Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000**To :** CenturyLink Customer <hands4u@q.com>

I got it and yes I would support you on that Bill Virgil Vetter.

On Jan 27, 2015, at 9:50 AM, CenturyLink Customer <hands4u@q.com> wrote:

let me know if you got

From: "CenturyLink Customer" <hands4u@q.com>**To:** "gail hovden" <hands4u@q.com>**Sent:** Monday, January 19, 2015 7:22:31 PM**Subject:** Fwd: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

<15.0511.02000.pdf>

CenturyLink Webmail**hands4u@q.com**

± Font Size -

From : Rowan Dahners <bernadetteschmidt1@msn.com>

Thu, Jan 08, 2015 11:54 AM

Subject : <No Subject>**To :** g h <hands4u@q.com>

Hi Gail Hovden,

I totally support to have 4 LMTs on the State Board, LMTs would understand of what massage therapist needs and wants are. Also to have the continued education stop after so many years of being a massage therapist, I have been a therapist for 22 years and I don't see how much more continue ed can help me in my practice. I would like to have the choice to go to more classes if I choose to and it not be manditory!

Thank you
Bernadette Schmidt.

To whom it may concern,

I am writing in regards to the continuing education hours. I have been an active massage therapist in the state of North Dakota for 8 years. I own my own business in Binford, ND and have a thriving business in a little town of 180 people. A town this size required people like myself to become volunteers in our communities. 4 years ago I joined the Cooperstown Ambulance Squad as a volunteer Emergency Medical Technician (EMT). I am nationally recognized as a practicing LMT and EMT. Continuing education in these two professions is held at a high standard in the state of ND. It is my proposal that these two professions be allowed to join in regards to continuing education. Continuing education requirement for EMT is 20 national hours, 10 local hours, and 10 individual hours every 2 years. LMT requirements are 32 hours every 2 years with at least 3 hours dedicated to ethics.

Board members are a critical resource to people like me. I support the proposal that the State Board of Massage be made up of 5 members, 4 being LMT's and 1 being a consumer member. We need people on the board that understands our profession as a whole. This is a growing industry which needs a solid foundation starting at the top with the board members. This profession was chosen by each licensed massage therapist practicing in ND. Let us put into place a board that protects and understands the issues that massage therapists encounter.

Thank you for your time and consideration.

Sincerely,

Theresa A. Iverson 969

In The Zone Massage Therapy

Binford. ND 58416

CenturyLink Webmail**hands4u@q.com**

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message bill support

From : Laura Kraenzel <chloecolty@outlook.com>

Tue, Jan 20, 2015 11:06 AM

Subject : message bill support**To :** CenturyLink Customer <hands4u@q.com>

Sent from Windows Mail

My name is Laura Kraenzel. I am from Dickinson, ND. I have been a licensed massage therapist since 1997. I agree with this bill and I fully support it. I am in full support of the 4 LMT's and the no more CEU's after so many years. We are losing older therapists that are not being treated right and I this would really help the problem. Thank you for your careful consideration.

Sincerely,
Laura Kraenzel

From: **Heather J** hijorstad@aol.com
Subject: In support of Senate Bill 2294
Date: January 30, 2015 at 7:52 AM
To: Lklemin@nd.gov

Hello,

I am in support of Senate Bill 2294. Being a massage therapist for the past 14 years I believe it is important for us Licensed Massage Therapists to have a voice on how our state board is run. I am in favor that our Massage State Board should consist of 4 Practicing Licensed Massage Therapists and 1 Consumer Member. Our board currently consists of 3 Licensed Massage Therapists, 2 of which are currently doing massage as there profession and 1(it is my understanding) who is teaching massage but not currently doing massage on a daily basis. We also currently have one of our consumer members as President of our Massage Board. I strongly disagree with this, and think that only Practicing Licensed Massage Therapists on the board should hold office as President. Currently all consumer members are holding office and the LMT's are not. This is causing conflict on our Board and I believe should be changed.

In section 4 Number 3d. I will say that I do not agree with the bill stating after a Licensed Massage Therapist has been licensed for 15 years that they will no longer need continuing education. I am one for education, and believe that every individual always has room to learn and grow, whether you have been in the business for 1 year or 15.

Thank you for your time, please consider supporting Section 2 of Senate Bill 2294.

Sincerely,
Heather Jorstad, LMT

CenturyLink Webmail

hands4u@q.com

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Proposed bill

From : massey@bektel.com

Thu, Jan 22, 2015 09:48 AM

Subject : Proposed bill

To : hands4u <hands4u@q.com>

Reply To : rrassey@bektel.com

This is for Bill # SB2294.

I have read the bill and agree of the changes being made.

Bobbie Jo Brindle. LMT#210

Lucia S. Steinmetz
216 6th Ave NE
Jamestown, ND 58401
(701) 252-0816

January 19, 2015

Gail Hovden
424 N 15th St
Bismarck, ND 58501

Dear Ms. Hovden,

I am writing in support of your efforts in testifying to the Legislature concerning the ND State Board of Massage Therapists. After 33 years as a massage therapist, I have interest in seeing legislation enacted to protect the interests of licensed massage therapists.

I am glad to see the recent increase in required hours from 500 to 750 within the ND Massage Therapy schools. More hours will better prepare students to complete the ND State Boards successfully. However, I do have a concern with the cost of the license renewal continuing to increase without sufficient reason behind the increase. For many years it was consistently set at \$50, in 2012 it doubled to \$100, the last I understood there is discussion it will increase another \$50 in 2015.

I also support the proposed measure 43-25-05 (3.d) stating licensed massage therapists having a paying practice for over 15 consecutive years should not be required to complete continuing education in order to have their license renewed. I agree with the concept, however I would suggest 20 years of consecutive years of service. As was my experience, many of the continuing education opportunities I encountered had already been covered in previous years and it was material I was using and new well already. So it was a burden of time away from my employment and extra expense in attending the conferences.

It is disappointing to still see the number of people within the state of ND that continue to practice massage therapy without a valid license. There needs to be regulations in place and consequences for those not meeting the guidelines.

One other area I would like to address is the ND State Board of Massage Therapists and how it is comprised. Statutes need to be implemented to limit the number of years one can serve on the board in any capacity and once the term is up, stepping down should come without any problem.

In the past, the ND State Board used funds collected to send representatives to the National Massage Therapy conventions. I feel this was a waste of funds, as the representatives would not bring anything back to share from what they had learned while in attendance. However, I do recall once instance, where Mr. Olson from Fargo attended a convention in China and brought back wonderful videos of new massage techniques that were very helpful.

I am so grateful for Gail Hovden to take on this task of bringing this before the Legislative assembly on behalf of the ND State Massage Therapists. I hope for the best and glad I could be a part of it.

Sincerely,


Lucia S. Steinmetz

pg 20

CenturyLink Webmail**hands4u@q.com**[± Font Size -](#)

bill 2294

From : Bonny Kemper <breatheagain@srt.com>

Tue, Feb 03, 2015 04:27 PM

Subject : bill 2294**To :** hands4u@q.com

I have been a massage therapist in North Dakota for 11 years. I have been practicing in Minot for all those years. It would be greatly appreciated if you would support Bill 2294. Thank you for your consideration. Bonny Kemper, BS, LMT,LR

Bonny Kemper
(701) 721-1492 mobile
breatheagain@srt.com

CenturyLink Webmail

hands4u@q.com

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Fwd: support of 2294

From : CenturyLink Customer <hands4u@q.com>

Wed, Feb 04, 2015 10:24 PM

Subject : Fwd: support of 2294**To :** gail hovden <hands4u@q.com>

From:

----- Begin Forwarded Message -----

From: Heidi<'strainheidi@ymail.com'>**Date:** Feb 4, 2015, 3:25:53 PM**To:****Subject:** support of 2294

I also feel we need bill 2294 to pass. Our massage board needs to be run BY massage therapists. We need to take control of our own board. We need some changes and I strongly feel this bill will help get these changes made. We need people on the board who understand this profession in this day and age and understand what it means to be a massage therapist, they need to truly understand how the profession works and I feel that this absolutely can not be done unless you are a massage therapist. I support this bill. I I think you should too.

Thank you for your time and consideration,

~ Heidi Strain, LMT # 847

pg 22

Carl —

I am SO... SO... sorry to have "let you down in not getting a note of support for Senate Bill No. 2294. I missed it as I was finally getting through the debris of all incoming mail.

I will be seriously consider committing hari-hari after the dogs have been fed.)

I am serious — please forgive my late approval for Senate Bill No. 2294.

Dave Reels

AMTA ID # 5119

Dear Board Members,

I would like you to consider changing the continuing education requirements in our state. I do feel it is beneficial to have continuing education when you are new to the profession. After ten plus years tho I would like to see it dropped. We should realize not everybody is full time after so many years as this profession is hard on our own bodies. Maybe more therapists would keep up licenses if the CEU's were not required. Our state requires alot of CEU's! Nurses require 12 CEU's every 2 years. Cosmetology doesn't require any. We are even required more hours than a pharmacist. Pharmacists have to have 15 CEU's a year. Nurses and pharmacists professions change alot. I feel if we want to pursue any education it should be our choice, not required by the state. Please consider changing this law. Thankyou.

Sharon M Peterson

P.S. It would be interesting to see what other states require for CEU's.

CenturyLink Webmail

hands4u@q.com

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Fwd:

From : CenturyLink Customer <hands4u@q.com>
Subject : Fwd:
To : gail hovden <hands4u@q.com>

Wed, Feb 11, 2015 01:13 PM

From: "p berg" <lmberg@gmail.com>
To: "Gail Hovden" <hands4u@q.com>
Sent: Wednesday, February 11, 2015 12:19:30 AM
Subject: Fwd:

--Gail,
One more for your support group.

----- Forwarded message -----
From: **Arlene Pozarnsky** <lakeloommessage@yahoo.com>
Date: Tue, Feb 10, 2015 at 7:53 PM

hey girl, just a little note to say I am in favor of bill 2294, change does need to be made. I like the idea of 15 yrs and then no more ceo's, actually 10 or 12 years would be good. If u stay in it after 10 u know that is what u want to do and you will automatically keep or take your own continuing education. I like the idea of inspections. Changes to board members is great. what about Karen W. job, I think 10 year status is good and then off for a few and back on. What is up with all the money we have? just get it passed and then work on changes,

CenturyLink Webmail**hands4u@q.com**

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FW: Senate Bill**From :** Shasta Held <ShastaHeld@gatecitybank.com>

Thu, Feb 12, 2015 10:25 AM

Subject : FW: Senate Bill**To :** hands4u@q.com

Hello

I am writing to agree with Senate Bill NO 2294. I am a part-time Massage Therapist I have been active therapist since 2003. I agree that 32 hours every two years is way too many. I feel that it is just a money game for CEU'S they are way overpriced. For being a Therapist for 12 years I feel it should be my choice if I want to take Continuing Education. I feel 8 hours would be plenty for a Massage Therapist my husband is an electrician and he only needs 8 a year . Massage Therapy is a hard profession to stay active in. I believe by adjusting the hours this would make a huge difference for us therapists. Training takes away time that we can be in the office make a difference for a client. Thank you for your time in considering this change.

Shasta Held #779

2/12/2015

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 CenturyLink Webmail

hands4u@q.com

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Fwd: Fw: 2294 bill support of

From : p berg <lmberg@gmail.com>

Thu, Feb 12, 2015 09:32 PM

Subject : Fwd: Fw: 2294 bill support of

To : Gail Hovden <hands4u@q.com>

On Thursday, February 12, 2015 2:37 PM, Karla Hoffert <karla_hoffert@hotmail.com> wrote:

I would like my support of bill 2294 be known that I agree with the proposed changes to this bill, I believe the changes will help to support the Massage Profession, now and further in the future.

Sincerely,
Karla Hoffert LMT

CenturyLink Webmail

hands4u@q.com

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Support Email for Senate Bill 2294

From : Audra R. Highley BCTMB Pure Harmony Massage <pureharmonymassage@live.com>

Sun, Feb 15, 2015 12:46 PM

Subject : Support Email for Senate Bill 2294

To : hands4u@q.com

Hi Gail,

This email is in support of the changes proposed in the Senate Bill 2294.

Thank you for your time and efforts!

Audra R. Highley, BCTMB #1238727, LMT #1150
Pure Harmony Massage
308 E Thayer Ave.
Bismarck ND 58501
(701) 425-8005

CenturyLink Webmail

hands4u@q.com

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Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

From : judy jacobson <vmassage@cableone.net>

Sun, Jan 25, 2015 03:54 PM

Subject : Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000**To :** hands4u@q.com

Gail, yes I support this bill and I know you left the bill # on my call phone but I have misplace it and if you send it to me again I can say on this email or the nest one I send you that I do support the bill. Judy Jacobson RN, LMT

On Jan 14, 2015, at 1:48 PM, CenturyLink Customer wrote:

From: "CenturyLink Customer" <hands4u@q.com>**To:** vmassage@cabelone.net**Sent:** Wednesday, January 14, 2015 1:41:30 PM**Subject:** Fwd: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

CenturyLink Webmail**hands4u@q.com**

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Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000

From : Mary Apple <maryapple62@yahoo.com>

Sat, Jan 17, 2015 06:56 AM

Subject : Re: Gail sending a copy of bill - Bill Draft Relating to Criminal History Record Checks - LC# 15.0511.02000**To :** CenturyLink Customer <hands4u@q.com>**Reply To :** Mary Apple <maryapple62@yahoo.com>

Dear Gail,

I am writing to say that I am for your bill. And my email address is maryapple62@yahoo.com. I live in Mandan ND and work as a massage therapist in Mandan also.

Mary Degner

On Monday, January 12, 2015 9:41 AM, CenturyLink Customer <hands4u@q.com> wrote:

Thank you Mary, What I need is a email from you saying you are in favor of this bill, with your name and where you are from. you are also more than welcome to come to the capital and tell them too. I will take your written email with me when i go to the capital, if you can write me one. thank you gail

From: "Mary Apple" <maryapple62@yahoo.com>**To:** "CenturyLink Customer" <hands4u@q.com>**Sent:** Monday, January 12, 2015 9:34:21 AM

pg 20

RE: CUE'S**From :** Carla Anderson <scrapbooker@bektel.com>

Thu, May 02, 2013 09:33 AM

Subject : RE: CUE'S**To :** hands4u@q.com

Gail,

I know this is something that I have been bringing up for awhile. It is actually something that I would do more research on before submitting it before the State Board. I do not know if it is being practiced in any other states.

Here is what I know and what I feel. I have heard that the average work expectancy of an LMT is 8 years because of several reasons, one being that the work is too hard for some people's hands to do.

This is myself and how I feel. Over the years, I have taken several different courses, as like everyone else, and I seem to take a little bit from each course and add it to my practice. At this point, I was licensed in 1996 and over the years I have developed my own massage techniques from all the different speakers that we see, again like everyone else that has been in this profession. As I take continuing education that relates to what I do, it is a refresher, but gets boring and monotonous. Over the last few years, I know myself and others that have been in the profession over 10 years find the continuing ed. to be a waste of money and lost time from our business.

As I look at each profession and see how educational requirements are required for each profession such as electricians, home inspectors, appraisers that have code/safety/requirement changes every year or other year, doctors, nurses, medical professionals they have new medicines, advanced medical equipment, new cures for diseases, I see where it is important for them to get continuing education every year. As for massage therapists, once you start hitting 10-15 years, you've gone beyond our expected work expectancy and there isn't many new things that pop up for us each year. I feel that once you start hitting 15-16 years of continued work in the profession, no breaks in between so that continuing ed was taken each year, we should change the education requirement of an LMT to what is required of our biggest massage affiliation, the AMTA, 48 hours every 4 years. Now, I would like to say, change it to 6 hours a year, but, I think we should at least keep it within national standards.

Gail, please give my apologies to the State Board as I know we typically use to have a representative from the AMTA-ND Chapter at the meetings and I do not know if anyone plans to attend yet again, but the reason I have not started attending the meetings myself is because I have been the breadwinner of my family for the last 2 years while my husband works through some issues and I cannot afford to take many days off, Friday being one of my best days of work. Also, as we are planning our Fall Workshop, we were interested in using local people to keep our costs down, but the people we are thinking of asking certainly do not hold national certification #'s. Are we able to hire and have people speak that do not have NCBTMB certifications? Another question is, one of the people I would like to ask does a 4 hour course on pediatric massage that deals with several difficult cases such as cerebral palsy, autism, adhd, and etc. I believe she has a NCBTMB number, BUT, we would not have her travel out here, I would like to do like a webinar where we would have her project on a screen and interact with the class. Like online schooling. Is this acceptable? Seems silly to take so much away from a speaker and spend so much money for a 4 hour course. It is mainly lecture. If you could let me know, we have a meeting on Monday the 6th and will be starting our plans for the workshop then.

Thanks much and if you need more info., please contact me at 400-7841.

Carla A.

PS: What is all expected of a person being on the state board?

From: hands4u@q.com [mailto:hands4u@q.com]

Education credits

From : The Hearing Aid Company <thehearingaidco@srt.com>
Subject : Education credits
To : hands4u@q.com

Tue, May 21, 2013 02:59 PM

April 30, 2013
...

Board of Massage Therapy

Massage for Body Benefits
Lisa Risovi
Lic #468
1809 So Broadway Ste. I
Minot, ND 58701

I received a call this morning asking my opinion on continued education for veteran therapist. I am a therapist of 14 years.

I am cutting back to part-time for my body cannot work the full time hours any longer. I would like to see the continued education hour's change as the years of service get higher.

We get very redundant when it comes to educating and don't feel the need to have as many hours of continued education to fulfill our license unless there are extreme changes in the law or modalities.. They take a new named class and we get refreshed after the many years we have educated. It is tough to get new material for continued education.



My vote would be to reduce education and try get more people involved in the board meetings. I myself have never been to one because of time and timing.



Lisa Risovi
Massage for Body Benefits

March 17, 2015

SB 2294 #2

Chairman Keiser and Members of the Committee:

My name is Pat Berg. I am a licensed massage therapist (LMT), practicing massage therapy in North Dakota since 2001. I presently sit on the North Dakota Board of Massage. I am testifying in favor of SB2294.

Page 1, Section 2 Amendment, concerning the structure of the Board of Massage:

The present makeup of this board does not have a majority representation of licensed massage therapists who list massage therapy as their primary/secondary occupation. With only two fully practicing LMT's sitting on this board and neither one holding office, this board does not represent the best interests of our practicing LMT's, or that of the massage therapy industry in this state. The consumer members on this board are diligently conscious of protecting the consumer; however, it is becoming burdensome because we are wandering outside of our scope of duties. This board has voted to use up to one-third of revenues in a single year in payment to a marketing firm for a campaign that is completely unrelated to massage therapy. Yes, massage therapists do need to be aware of human trafficking, but we do not police it nor are we responsible for disseminating such information.

This board has voted to hire an office administrator for thousands of dollars more than either of two other viable bids from professional vendors, even though more services were included in those bids. There is overspending for duplication of services. There is a lax in accountability.

Leadership is floundering and North Dakota LMT's have lost their voice. The proposed changes as outlined in SB2294 would give North Dakota Board of Massage the necessary tools to correct many of these issues.

Suggestions are also being made that statute be changed to require persons with medical and education backgrounds to sit on this board, thus increasing this board from five to seven members.

Chapter 43-25-02 specifically defines massage therapy as just that. Massage therapy. It definitively states that **"massage does not include diagnosis or other services that require a license to practice medicine or surgery, osteopathic medicine, chiropractic, occupational therapy, physical therapy, or podiatry and does not include service provided by professionals who act under their state-issued professional license, certification, or registration."**

Anyone moving into this state from, for example, Florida where massage therapy falls under that state's Department of Health, will need to adjust their mindset to the fact that ND has a stand-alone board and it does not fall under any other state regulated department, health or otherwise. Having a medical person on this board to oversee if we are or aren't doing anything medically correct is not warranted. Medicine is not within our scope of practice.

North Dakota requires 750 education hours to qualify for massage therapy license. The requirements as spelled out in Chapter 49-02 Administrative Code are as follows:

1. Having completed 750 hours at a single school of massage therapy or more than one school, as long as the total hours are not redundant.
2. Education provided by a recognized and approved school and provided by a credentialed educator.

3. Specific number of hours of anatomy, physiology, pathology, kinesiology, first aid and hygiene, business, and ethics. Specific number of practical instruction defined as lab or hands-on instruction in a qualified classroom setting.

Although these duties are required and necessary, it does not require the "expertise" of an educator to sit on the board to make sure that all current and new licensees qualify.

If the number of board members is increased to add unnecessary oversight, it will also increase board expenses. In 2010 the licensing renewal fee was raised from \$50 to \$100 annually, with no explanations to the massage community at large. We have already dealt with a 100% fee increase and raising it again after only a few years is not good management.

There are approximately 725 licensed massage therapists in North Dakota. Very few other boards in ND have people outside of their profession or industry controlling their boards. Requiring specific outside professionals to sit on this board equates to internal policing and is an insult to the majority of professionals in the massage therapy industry.

Page 2, Section 3 Amendment, item #2, concerning inspections:

Inspections of massage premises are a very important part of the duties of the ND Board of Massage. Inspections inform the board and therapists about safety and sanitation issues, as well as provide an opportunity to impart information to correct or prevent problems should they arise. Along with random board inspections, self-inspection forms can be submitted as a requirement for licensure renewal. The self-inspection forms are in-depth and informative, allowing a therapist to understand what is required of them. A board member or hired inspector could do follow-up inspections where problems have been detected.

Provided we can resolve the issues stated above, inspections can be affordable to this board should we find it necessary to hire an inspector on occasion.

Page 3, Section 4 Amendment, concerning continuing education units:

Line 22 on page 3 - I disagree with adding the requirement of three hours of ethics to continuing education submitted every two years. Education requirements will always be dynamic. Adding such specificity to statute is restrictive. This would be better addressed in Administrative Code, which currently does list ethics as a requirement to education.

Concerning continuing education, the ND Board of Massage and the massage community of this state need to focus on what is happening at the national level. As the massage industry evolves and becomes regulated and licensure becomes required by more states, the need has arisen for industry standards. Presently, 41 states require licensure, along with the District of Columbia and Puerto Rico. State or local certification is required of the remaining states - three of which currently have pending licensure legislation. There is a large variance in statute from state to state, making for difficulties in regulation and reciprocity.

In 2011, representatives of several national professional organizations for massage met to discuss the challenges facing the industry. An in-depth study to identify and address opportunities to advance the profession was done, and a "Practice Act Blueprint" was developed with recommendations for standardization of education and continuing education requirements. A very brief outline of this report is attached. It is the hope that states adopting legislation follow this blueprint and that states already requiring licensure take a fresh look at the blueprint.

Because of these national recommendations, lowering ceu requirements will display a voluntary compliance within these guidelines, make North Dakota less isolated from the majority, and allow for greater ease of reciprocity. It will also advocate the growth of the massage industry in North Dakota.

In Section 2 amendment, 1b we would like it to read:

One member of the board must be a consumer member **who has lived in North Dakota for the past three years.**

Page 5, Line 17:

There should be no change in this line. It is a drafting error which was overlooked during this hectic time.

I thank you for your time today.

Coalition of National Massage Therapy Organizations:

- Alliance for Massage Therapy Education
- American Massage Therapy Association
- Associated Bodywork and Massage Professionals
- The Commission on Massage Therapy Accreditation
- The Federation of State Massage Therapy Boards
- The Massage Therapy Foundation
- The National Certification Board for Therapeutic Massage and Bodywork

Findings:

- Inconsistency in quality, depth, quantity and focus of entry-level massage therapy education skills and knowledge
- No national standards for massage teachers
- Lack of licensure portability

Outcome:

- Agreed upon core elements of entry-level massage therapy instructional programs
- Developed the Entry-Level Analysis Project (ELAP), a 266 page report outlining an Entry-Level Massage Education Blueprint consisting of research-informed conclusions in classroom instruction, curriculum development, instructional design, and assessment expertise.
- Recommending 625 hours to graduate from an accredited massage therapy program
- Shifting the focus of licensure renewal requirements from requiring continuing education hours to maintaining core competencies with the recommendation of 6 hours annual continuing education

The complete report can be found at: http://www.elapmassage.org/final_report.php

March 17, 2015

SB 2294 #3

TESTIMONY in support of SB 2294

Chairman Kaiser and Members of the Committee,

My name is Dianne Aull. I have been a massage therapist for over 17 years, taught massage therapy as an employee of Williston State College for 5 ½ years, and served as an officer for the AMTA (American Massage Therapy Association) North Dakota chapter for 5 years. Prior to my massage career, I was an educator and later an administrator for statewide and regional adult continuing education entities.

Although I serve on the board of massage, which opposes this bill, I personally support this bill.

Massage therapists are over-regulated in North Dakota and this bill will take real steps to rectify that problem.

The Massage Registration Act was enacted in 1959 creating the North Dakota Board of Massage to protect the health, safety, and welfare of the people of the state. The board was to:

1. Prescribe regulations for the practice of massage
2. Conduct inspections of massage establishments
3. Make available the necessary requirements for licensing massage therapists.

The law was established at the request of a group of massage practitioners. Massage therapists desire and appreciate our law which works to shield our profession from people who would attempt to practice massage therapy without proper training.

North Dakota's Board of Massage is configured in a way that allows non-massage therapists to take control. **The result has been over-regulation of our industry.** This is evidenced by:

- higher licensing requirements than most other states
- greater continuing education requirements for license renewal than **any** other state in the nation
- license fees that are charged twice as often are thus are relatively twice as high as most other states.
- a static (or declining) number of LMTs in our state for the last several years, in spite of the growth in our state in general
- fewer licensed massage therapists than any other state with licensing.
- a reciprocity policy that is virtually ineffective

SECTION 2 AMENDMENTS

Page 1 – Beginning with line 17

We need better representation of LMTs (Licensed Massage Therapists) on the Board of Massage.

- Our board is unusual – few other boards in our state have people outside their profession or industry *controlling* their boards. Attached is a list of some other North Dakota boards and their composition.
- The Federation of State Massage Therapy boards (FSTMB) was tasked by its 32 member boards to develop a model practice act to provide statutory language as a resource for states based on the collective wisdom of the massage therapy regulatory community across the nation. This document suggests that massage therapy members be “licensed and in good standing, and who shall have been engaged in the practice of massage therapy for not less than five consecutive years preceding the date of appointment.” and it does suggest a substantial majority be LMTs.

- As massage therapists, we are trained to know what our job is, and what it is not. It is easy for a massage therapist:
 - *to identify people who are not qualified* to do massage,
 - *to identify violations* of our state practice act,
 - and to identify *problems* in a massage setting.
 - Massage therapists *know what our scope of practice is*, and
 - *have a clear understanding about when a client should be referred to a health care professional*. These specific skills make massage therapists uniquely qualified to regulate our own profession.

Our board needs more specific criteria for a consumer member

Page 2 - Beginning with line 3

- Our board needs more transparency, accountability, and fiscal responsibility.
 - The majority vote is given over to people who do not make their living doing massage therapy and the monies collected and dispersed do not impact them personally.
 - The present board operates without a budget as it has done for at least the past eight years and probably more.
 - Financial reports are nothing more than a copy of a checking account statement, sometimes for a little as one month. Income and expenses are not reported at meetings or between meetings.
 - The board's lack of transparency has been, and continues to be, a recurring theme in complaints we hear from members of the profession.
- Complaints our board receives are not medical in nature except if the therapist has worked outside of our limited scope of practice. Typical complaints have to do with things like violation of personal boundaries and failing to honor gift certificates.
- The 3:2 ratio is seen in some other states, but those boards are typically in states where massage regulation is *part of a state agency*, such as the health department or the department of human services, and not independent boards outside of government agencies.
Attached is a list with composition of massage boards in other states.

There is excessive influence of massage schools on the board

- Although *our board does not regulate massage schools*, for the past decade one of the LMT positions on our board has been filled by someone who represents schools instead of representing LMTs.
- We presently also have a consumer member who works for a massage school. That makes 40% of our present board employed by massage education providers.
- Where *other* states have a school representative on their board, that board also regulates schools.

Some people have suggested expanding our board to 7 members so that we can continue to have 2 consumer members and still have more LMTs on the board.

- According to our website which was updated within the last couple weeks, we have 666 licensed massage therapists in the state, (a drop of 60 LMTs since the last report) that would be a board member for every 95 therapists which is unnecessary. Other states with 7 member boards typically have thousands of practitioners to regulate.
- Expanding the board would add to costs for reimbursement and travel which might undermine our ability to pay for inspection services.
- Over-developed bureaucracy can't be improved by expanding it even more.

Enhanced term limitation language

- The problems this board faces now are related to lack of turnover on the board. A lapse of ten years between returning to the board would help prevent a repeat of this cycle of over-regulation.
- By bringing on new members at least every 8 years, administrative problems would get more notice and new expertise applied for solving problems.

SECTION 4 AMENDMENTS

The amendment to reduce continuing education hours from 32 to 24 hours per biennium will help bring continuing education requirements more in line with accepted industry standards.

- North Dakota presently requires far more continuing education than any other state.
- 35% of the courses listed on our website as approved continuing education are “*energy work*” such as Reiki and Diamond Dowsing! Some people might enjoy these courses but *they do nothing to protect consumers*.
- Excessive continuing education is another example of over-regulation.

Regarding “board infighting” question

When I testified on this bill at the Senate hearing, one Senator asked if this was an instance of board infighting where we were looking for the legislature to intervene. I believe this bill may have been misconstrued by some. Although there is not complete agreement on the board on every issue, there has been no infighting, and no one has ever implied that any board member is not doing their best to serve this board. I am saddened to hear that some board members feel personally attacked because of this bill. That has never been our intent.

Instead, we see this as simply a case where the way our statute is presently set up, it creates an overly cumbersome environment, for what are usually micro-businesses, to be successful. We are looking to the legislature to allow our board to look more like other similar boards in North Dakota. We want our board to be controlled by people who understand the nuances of our businesses; we want to create an increasingly friendly atmosphere for massage therapists to work in our state so that our industry can stop its decline and begin to grow and thrive.

Our board’s purpose is to protect the health, safety and welfare of the consumers by regulating massage and we can do so without stifling massage therapy businesses.

Thank you for your attention.

EXAMPLES OF THE COMPOSITION OF SIMILAR NORTH DAKOTA BOARDS

Profession	Professional members	Public Members
Addiction Counselors	5 Addiction Counselors	2 Laypersons
Athletic Trainers	3 Athletic trainers, 1 MD	1 Public member not affiliated w/ any healthcare field
Architecture	3 Architects	N/A
Audiologist & Speech Pathologist	2 Speech Pathologists, 2 Audiologists, 1 Hearing Aid Dealer, 1 Otolaryngologist	1 Consumer
Barbers	5 Barbers	N/A
Chiropractors	5 Chiropractors	N/A
Cosmetology	3 practitioners	2 Consumers
Dental Examiners	5 Dentist, 1 Dental Hygienist	1 Consumer
Dietetic Practice Board	3 Dieticians, 1 Nutritionist	1 Consumer
Funeral Service Board	3 Funeral Practitioners & 1 State Health Officer	N/A
Education Standards & Practices	5 Teachers, 2 School board members, 2 school administrators, 1 Dean of College of Education	N/A
Integrative Health Care	1 Naturopath, 1 MD or DO, 1 Nurse Practitioner, 1 Pharmacist, 1 Music Therapist	N/A
Nursing	5 RNs, 1 Advanced Practice RN, 2 LPNs	1 Public member
Optometry	5 Optometrists	(7 members altogether)
Occupational Therapists	3 Occupational Therapists, 1 OT assistant	1 Consumer
Pharmacy	5 Pharmacists, 1 Pharmacy Technician	1 Public member not affiliated w/ any healthcare field
Physical Therapy	3 Physical Therapists, 2 MDs	1 Public member not affiliated w/ healthcare
Podiatry	4 Podiatrists, One other MD	1 Public member
Private Investigators and Security	Between 5 & 11 members – majority must be actively engaged in PI or Security	At least 1 public member
Psychological examiners	5 Psychologists – 1 who is currently a Psychology service provider and 1 primarily a teacher or researcher	N/A
Respiratory Therapists	4 Respiratory Therapists, 1 MD, 1 polysomnographic technologist	1 Public member

MASSAGE THERAPY BOARDS

State	Public/Professional/Other	# Licensees	# of Members	LMTs	Agency
Alabama	1		6	5	
Arizona	2 with interest in consumer rights or law enforcement	10,000	5	3	
Arkansas	1	2,066	7	6	
California		47,857	19		
Connecticut			5		Dept of Public Health
Delaware	3	1,212	7	4	Division of professional regulation
Florida	2	34,729	7	5	Part of Dept. of Health
Georgia	1	6,689	5	4	
Hawaii	2		5	3	Dept of Commerce
Idaho	1		5	4	
Illinois	1		7	6	
Indiana- has six professional staff - board does hearings	2	4,008	5	3	Part of Indiana Professional Licensing Agency
Iowa	3		7	4	Part of board of Professional Licensure - Administered by Dept. of Health
Kentucky	2 (1 may be health professional - none w/ direct or indirect interest in massage)		7	5 (1 MT must own school)	Part of Public Protection Cabinet - Office of Occupations and Professions
Louisiana	1 and 1 Physician	2,478	7	5	
Maryland	2	4,000	11	6 chiros, 3 LMTs	Dept of Health & mental Hygiene; Board of Chiropractic and Massage Therapy Examiners
Massachusetts - agency regulates practioners, salons, and schools			7		Part of Consumer Affairs and Business Regulation
Michigan	4	4,173	11	7	Dept of Licensing and Regulatory Affairs
Mississippi	1+ 1health professional		6	4	Chairperson must be massage therapist
Missouri	1 public member + 1 non-voting member	5,153	7	6	Division of Professional Registration
Montana	1 public + 1 healthcare provider	1,800	5	3	Dept of Labor and Industry

MASSAGE THERAPY BOARDS

Nebraska	1,375	4	3	Dept of Health & Human Services	1 public + 1 non-voting law enforcement member	Dept of Health & Human Services
Nevada		7	6			
New Hampshire	1,963	3	3	Board of Licensing and Certification - Dept of Human Services		Board of Licensing and Certification - Dept of Human Services
New Jersey	7,170	9	6	Consumer Affairs Dept of Law and Public Safety	2 public + 1 member of executive branch	Consumer Affairs Dept of Law and Public Safety
New Mexico		5	3	Regulation and Licensing division. Massage law sunsets in 2016	2 public	Regulation and Licensing division. Massage law sunsets in 2016
New York	18,000	7	4	State Education Dept.	3 physicians	State Education Dept.
North Carolina	8,500	7	5		1+1 MD	
North Dakota	726	5	3		2	
Ohio		7	7	Advisory committee for state medical board		Advisory committee for state medical board
Oregon	6,600	7	4		2 public + 1 healthcare	
Pennsylvania	8,570	8	6	Part of Dept. of Health	2 public	Part of Dept. of Health
Rhode Island		N/A	N/A	Dept. of Health – no board	N/A	Dept. of Health – no board
South Carolina	4,000	7	6	Dept of Labor Massage/Bodywork Panel	1 public	Dept of Labor Massage/Bodywork Panel
South Dakota	880	5	4		1 not an LMT	
Tennessee		7	5	Part of Dept of Health	2	Part of Dept of Health
Texas	29,596	N/A	N/A	Dept of State Health Services	N/A	Dept of State Health Services
Utah		5	4	Occupational and Professional Licensing	1 public	Occupational and Professional Licensing
Virginia	7,248	N/A	N/A	Regulated by the Board of Nursing	N/A	Regulated by the Board of Nursing
Washington	13,739	5	4	Dept of Health	1	Dept of Health
Washington DC		4		Dept. of Health		Dept. of Health
West Virginia	1,156	5	3	1 lay person w/ no healthcare affiliation & 1 Osteopath or Chiropractor		
Wisconsin	5,360	7	6 – 1 a technical college rep & 1 a school rep	1 public member		Dept of Safety and Professional Services

March 17, 2015

Testimony, Senate Bill 2294

Steve Olson
2808 Maple Street N.
Fargo, ND 58102
701.293.9482
District 44

To: House Industry, Business and Labor Committee
Representative George Keiser, Chairman; Representative Gary Sukut, Vice
Chairman; Representatives Amerman, Beadle, Becker, Boschee,
Devlin, Frantsvog, Hanson, Kasper, Laning, Lefor, Louser, Nelson, and Ruby,
Legislative Members.

I am generally supportive of this bill. I have strong support for some aspects and
objection to other pieces.

Section 2 Amendment: Board of Massage - terms

**I strongly support the changes in composition of the Board of Massage to four
practicing massage therapists and one consumer member. I agree that the
consumer member should not hold a board office. I am concerned about two-thirds
of the licensees who appear to be absent from the Board's consideration. I am
concerned about dual relationships - board members who also serve an
administrative function.**

I believe that having "practicing" Massage Therapists, with a minimum of 3 years
experience, serving on the Board of Massage is important. Their understanding of the
profession is tempered by their experience of seeing customers and this will inform their
Board decisions.

The American Massage Therapy Association (AMTA), North Dakota Chapter, has said
that the shift to one consumer member may result in a reduction of protection to the
consumer. I disagree. The laws enacted by the Legislature and signed by the Governor
are what serve to manage the industry and protect the consumer. The task of the five
board members, no matter how they qualify for board membership, is to carry out the
laws.

I favor the limitation statements regarding the consumer member on page 2, lines 3-14.

The consumer member position can be a wild card. I presume that the consumer member
is meant to be "neutral" - an individual that has limited understanding of the Massage
Therapy profession. They are the "fresh" voice in board decisions. However, it is likely
that the consumer member will be influenced by other board members, staff or other
massage therapists and then their voice becomes the expression of another person's

perspective and opinion. This can potential sway Board decisions, especially with the current composition of 2 consumer members on a board of 5 (40% of the Board). I believe its better to have one consumer member rather than two.

As you ponder changes to the Governance structure of the Board of Massage, I want to add another component that is of concern to me. When the Massage Practice act of 1959 was passed, Board members were required to be members of what is now the American Massage Therapy Association - ND Chapter (AMTA-ND). Therefore, the Board was 100% AMTA members. So, the professional organization and the regulatory Board members were in effect merged. This made sense at the time because virtually all therapists were members of AMTA. While the requirement of AMTA membership on the Board of Massage ended in the late 1980's, the Board continued to be dominated by AMTA members. However, the demographics of the licensees has changed and AMTA members are now in the minority with about 35% of the total number of therapists (total number of licenses 726; AMTA members at 260; and other licensees at 386). Is it important that a regulatory board's composition reflect the license holders? The changes to Board composition in this bill may result in greater representation of the 386 members that are not affiliated with AMTA.

There is another governance issue with the Board. Two of the current Board members also serve in roles that are a function of Administration. One reviews education aspects of applications and the other is the webmaster. So we have board members who are also like employees. As we learn in our ethics training, dual relationships are very tricky and I encourage the Board to separate these duties and responsibilities.

I have watched the ND Board of Massage for 30 years. It has become an increasingly "secret society". They discourage participation in its business except by a select few that I call the shadow board. Its meeting minutes are not helpful in understanding the actions of the Board. The Board's bill, SB 2085, was approved in October but has never been posted on the Licensing Board's website or in the minutes. They did post a message regarding the initial hearing on SB 2294 and encouraged opposition. While the Board claims to have email addresses for all therapists, they have not alerted them to any of these legislative activities. Openness seems to be beyond the capabilities of this Board and its staff.

Section 4 Amendment: License - Display - Renewal - Renewal fee

I do not support continuing education units for renewal of a Massage Therapist License. Let's join Hawaii and move to zero. For professional associations, CEU's are part of their marketing plan. I believe that the Board of Massage should regulate the profession at its entry level. CEU's are big money. AMTA and ND Board of Massage.

I do support CEU's for professions that are constantly evolving and that have a great level of risk. Such examples include the practices of medicine and Law and also in some

trades like construction and electrical work. Massage Therapy poses little risk to the consumer and is a very limited manual practice. As a profession we are much closer to a wellness provider than to a healthcare provider. About ¼ of the states that regulate massage do not require CEU's. I'd like North Dakota to be one of them - let's join the Aloha State.

My professional organization (AMTA) does have an interest in Continuing Ed because its mission is to "advance the art, science and practice of the massage profession". It's a marketing decision so that they can say its members are better than other practitioners. Like any organization AMTA has competition. AMTA sets its CEU requirement in response to its largest competitor who requires only 9 annually.

The Board of Massage should not be acting in this arena - its task is to regulate, not to advance the profession. I prefer that the Board regulate the profession at the entry level. If a licensee wishes to practice in the manner taught in their board approved training, I support them. Believe me, if they succeed in sustaining a practice they will continue to improve their skills - we are informed by our practice. You are all aware of one kind of practitioner that fits this description - the person doing chair massage.

I do encourage Massage Therapists to find post-graduate trainings that will increase their skill set as it will likely improve their chances of being successful in a very difficult field. All massage, when done well, is therapeutic. I encourage excellence.

There is a huge financial element driving CEUs. The AMTA Chapter is by far the largest provided of CEUs in North Dakota. Schools/training programs, Chiropractors, and individual massage therapists are also presenters of these classes. There is a terrific rate of financial return attached to offering these courses. These special interests will fight to keep money coming their way.

Can you find classes in ND to meet the Board's CEU requirement? Yes. You can always take Brandi's annual December workshop in Fargo- just in time to get last minute credits. Can you find classes that match your interests in ND? Probably not. This means serious travel and expense dollars.

The AMTA and the ND Board of Massage have a curious relationship in regard to CEU's - the Board always matches the professional association levels. Not to long ago AMTA required 18 hours a year for membership renewal. When it dropped them to 16, so did the Board of Massage. Now AMTA has reduced them to 12 and the Board of Massage is following suit. However, the membership requirement for AMTA is only 500 hours of training while ND requires 750. If we must have CEU's for license renewal, we should reduce AMTA's number by 50% because we have a higher number of training hours.

My preference is for ZERO CEU's but will settle for 6 annually.

I do not support mandating 3 CEUs on Ethics.

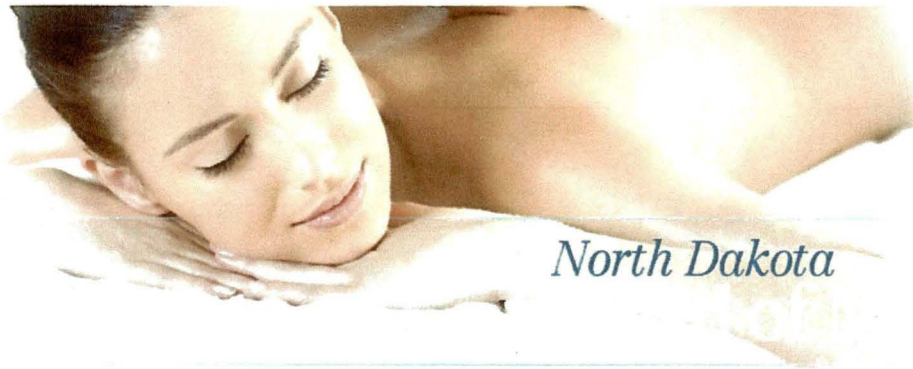
Specifying that three hours of continuing education must be in the area of ethics is not acceptable to me. Why? If there are specific problems that the Board is seeing in complains brought to its attention, simply let the licensees know about them. The Board is in charge of all components of massage training programs and they can bolster the ethics training in the basic education requirements rather than a blanket requirement covering all licensees. A hidden aspect of Continuing Education is that there are no standards for course content, so this requirement without specificity is meaningless - ethics is a large field of study.

It might also be helpful if the Board had some way to ensure that licensees actually read the laws and rules governing massage in ND. Because the Board utilizes a national exam for licensure, a therapist can be licensed in North Dakota without having read the laws that the Legislative and Executive branches enact.

Closing

The massage profession has been the center point of life for 30 years. Its demanding physical work. I have not gotten rich. I continue to practice being a professional. My skills continue to grow. I serve my customers. I hope my comments assist this committee. Thank you for hearing me.

I welcome any questions.



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Welcome to the Board of Massage!

The North Dakota Board of Massage is a five member regulatory board appointed by the Governor. Three of the members of the board must be massage therapists who are licensed in this state. The role of the board is consumer protection including regulating the massage therapy industry in the state. We maintain licensing standards across the state in accordance with the North Dakota Century Code.

There are currently 726 licensed Massage Therapists in North Dakota.

Calendar

There are no events scheduled.

Board News

[Reporting Error Notice - Recall lapsed license list](#)

February 11, 2015 3:12pm

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Office hours: M-F 8am-5pm(Mountain Time)
268-8139

1-877-

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North Dakota State Board of Massage

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Call 1-877-268-8139 for general information.

Administration

Karen Wojahn - Office Administrator

karen.wojahn@ndboardofmassage.com

Board Office and Member Status

Jon Simmons - President/Consumer Member

jon.simmons@ndboardofmassage.com

Pat Berg - Board Member/LMT

pat.berg@ndboardofmassage.com

Todd Salwey - Secretary/Treasurer/Consumer Member

todd.salwey@ndboardofmassage.com

Dianne Aull - Board Member/LMT

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Wendy McGinley - Vice President/LMT

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All correspondence is to be mailed to:

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Alexandra Gebeke
Alexandra Newman
Alexandria Hedstrom
Alexis Hage
Alicia Nelson
Alisan Girodat
Alisen Santer
Alisha Greenberg
Alison Kindem
Allan Galster
Allen Kolling
Allisen Wensman

**Sheet1****Lapsed/Expired/Revoked/Suspense**

Alexander Huntrods
Alicia Ranum
Alisha Ruscheinsky
Allison Farden
Allison Picard
Alyssa Lundgren
Alyssa Petrie
Alyssa Vistad
Amanda Burke
Amanda Erickson
Amanda Gilbertson
Amanda Vinchattle

**Sheet1**

Sheet2

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[Home](#) » **Meeting Minutes**

[DRAFT MEETING MINUTES OCTOBER 24, 2014](#)

[MEETING MINUTES SEPTEMBER 12, 2014](#)

[COMMITTEE MEETING AUGUST 29, 2014](#)

[CONFERENCE CALL AUGUST 6, 2014](#)

[MEETING MINUTES JUNE 13, 2014](#)

[COMMITTEE MEETING MAY 13, 2014](#)

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Friday, October 24, 2014

Board Meeting on the 17th Floor at the Capital

Roll Call: Wendy McGinley, Jon Simmons, Todd Salwey, Dianne Aull, Pat Berg, Edward Erickson, and Karen Wojahn

Visitors: Carla Anderson, Sara Stillwater and Michelle Tranby

Approval of Agenda – Add- Xia Goller, and Melissa Willis

President Jon Simmons call the meeting to order at 9:00 am, cst.

Minutes: Dianne would like year behind all Agenda Items. Send Dianne 2nd page to last report.

- Karen pointed out changes to minutes. Again Karen asks the board to call or email corrections before the meetings.
- Dianne made a motion to approve as corrected. Seconded by Wendy. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- Karen handed out other committee minutes, and phone conference minutes, all unofficial. Dianne made a motion to accept. Wendy seconded. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.

Treasurer Report: Karen went over financial report. Dianne turned in an extra expense sheet for the 4 days she attended the Federation meeting. Todd went over Dianne expense sheet for Law and Legislature meeting she attended for 3 hours, she should have gotten \$50.00 instead of \$37.50, office to reimburse Dianne for the difference. Meeting Rate is based \$100.00 for 6 hours, it is to be prorated after that. Outside of meeting board members get \$10.00 per hour. Karen to send out individual sheets of what needs to be turned in.

Tammy Martin: Edward has not got a report back. When he does he will email Karen who will email Board members.

Lynn Crawford: Edward hasn't had time to complete it Edward is to send a copy of letter to Karen.

Fallon Saulters: Edward hasn't had time to complete it Edward is to send a copy of letter to Karen.

Cindy Moser: Edward hasn't had time to complete it Edward is to send a copy of letter to Karen.

Aff. of Compliance: Edward has redone the wording, and read it to the board. Discussion. Edward will give copy to Karen for application. Karen to send copy to the board.

Inspections: Copy form for new applicants to be put in Licensing packet.

Wendy did inspections in Minot. Wendy to give copies to Karen so she can put them in their chart.

Karen asked for permission to do Dickinson and Medora.

Jon asks board members to get in their inspections before the end of the year.

Federation: Wendy gave report. A lot of states have the same concerns as we do. Sexual offenders, human trafficking, people practicing without a license. Dianne also went to the meeting, she was overall pleased with her first Federal Meeting, and she reported they also talked about false credentials and CEU'S Discussion.

National: They are no longer testing.

Schools: Wendy reported on WSC program 7 will graduate and 12 are first year students. Michelle Tranby was at the meeting to report on Salon Professional Academy in Fargo. They have around 12 per class, 3 classes per year.

- AMTA: Carla Anderson, President of ND chapter of AMTA reported on their National Convention. She let the board know National Massage Therapy week is coming up. It is a time to promote massage. Carla asks if self-defense could count as 1 CEU. Karen encouraged Carla to send in a CEU approval sheet. Discussion on 1 CEU for a AMTA State meeting for a 2 year period. Diane made a motion for 1hr CEU for a 2year renewal period from attending AMTA Annual Meeting. Pat seconded. Discussion. Jon amends motion 1 CEU per Annual Meeting per year. Wendy seconded. Discussion. Todd amends board member needs to give presentation at the meeting. Wendy seconded. Wendy-Aye, Jon-Aye, Todd-nay, Pay-Aye, Dianne-Aye. Motion carries.

Li Lu: Wendy updated the board, handout was emailed to board prior to meeting. Discussion. Wendy to check California and Florida. Karen will check her name for complaints. Wendy to review and make a teach out plan.

Xia Goller: Wendy updated the board. Wendy is waiting for a reply from the National to find out why the schools were revoked.

Melissa Willis: Karen reported on a massage therapist who let her license lapse. She is trying to do what she needs to get licensed again. The Chiropractor that has her working didn't know she wasn't licensed; she apologized.

Renewals: Karen told the board the renewal post cards will be sent the first Friday in November. Jon will notify LMT'S by email that site is open. Karen explains problem with license #, they use the wrong ones and it updates incorrect. Jon states email address must be correct in order to get email.

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Any other Board Business: Question was asked if we can give out a list of therapists. We have a list of licensed and unlicensed on website. We are a licensing board. If someone is looking for a therapist Karen takes their name and phone number. Karen contacts the therapist and lets them know the name and number and lets them decide whether they want to contact them or not.

Tiffany Thurston: Wendy explains school was burned down. And she thinks she is the one who did apprenticeship Wendy will check it out.

Jon cautions the board about giving out his personal number. Just call and give Jon their number and he will call them.

Lunch: Meeting resumed at 12:44 pm

- Law and Legislature: Edward read the handout on criminal history record checks. Discussion Wendy made a motion to accept as submitted. Todd second. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- 43-25-05. Board of Massage Terms. Concerns of consumer members. Discussion. Dianne made a motion to change 3 LMT'S to 4 LMT'S and 1 consumer. Pat seconded. Discussion. Wendy-nay, Jon-nay, Todd-nay, Pay-Aye, Dianne-Aye. Motion fails.
- "Actively practicing" – Todd made a motion to change 3 years to 2 years. Jon seconded. Discussion. Wendy-nay, Jon-Aye, Todd-Aye, Pay-nay, Dianne-nay. Motion fails.
- Dianne made a motion to except clause as written. Pat seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- Todd made a motion to leave term limits language as it was before, and no more than 6 years consecutive years. Wendy seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- Nor have a financial interest in massage therapy reword to read nor have a direct and substantial financial interest in massage therapy. Motioned by Wendy. Todd seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- 43-25-09 License-Display-Renewal-Renewal Fee #1-Wendy made a motion to strike the proposed change. Dianne seconded. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- 43-25-09 #3 Dianne made a motion to change 32 CEU's to 24 CEU's. Pat seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-nay, Pay-nay, Dianne-Aye. Motion carries.
- Online hours. Wendy made a motion to reduce 12 online to 9 online hours. Jon seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- Ethics – Todd made a motion of the 24 CEU's, 3 CEU's must be ethics every 2 years. Dianne seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.

- #3.b. Dianne made a motion to accept language. Pat seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- #3.c. Wendy made a motion to accept language. Pat seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- #3.d. Dianne made a motion to accept language. Not second. Motion Dies.
- #4. Motion by Todd to accept language. Wendy seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.

Break:

- 43-25-10 #2. Motion by Wendy to accept language. Pat seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- #3. Wendy made a motion to accept language. Dianne seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- 43-25-14. Wendy made a motion to accept language. Dianne seconded. Discussion. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- 43-25-18. Pat made a motion to accept language. Todd seconded. Wendy-Aye, Jon-Aye, Todd-Aye, Pay-Aye, Dianne-Aye. Motion carries.
- Edward to combine both bills.
- Note copy of Law and Legislature proposed bill attached to minutes.

Adjourn – Motion by Todd. Seconded by Wendy.

Next meeting January 23, 2014 at 9:30am, cst.

Adjourn – Motion by Todd seconded by Wendy.

SB 2294 #5
3/17/15

Senate Bill No. 2294

Wendy McGinley, LMT and Vice President, ND Board of Massage

March 17, 2015

Good afternoon Chairman Keiser and members of the Industry, Business and Labor Committee. My name is Wendy McGinley and I am the Vice President of the ND Board of Massage. I am a licensed massage therapist, a licensed physical therapist assistant and the Program Coordinator and Instructor for the massage therapy program at Williston State College. I am here to explain why the ND Board of Massage stands in opposition of Senate Bill No. 2294.

Section 2 – Under #1a - The Board of Massage does not support changing Board membership to 4 massage therapists and 1 consumer member. In 2001, during the 57th Legislative Assembly (HB 1155), the board composition changed from 3 members to 5 members with the two additional members being consumer members. The only requirement for being a massage therapist on the board was that they be licensed in the state. SB 2294 states that the massage therapist be "actively practicing". What exactly does that mean? If someone is licensed, but only does one massage a month, is that "actively practicing"? Or how about one massage a year? Is there a certain amount of hours that they must be performing massage, or a certain amount of money that they are to make to be considered "actively practicing"? Who is going to verify this and how is that going to be done when looking at who would qualify to sit on the board?

Under #1b – The Board of Massage does not support the listed limitations placed on who could qualify for the consumer member position. The only requirement for the consumer member prior to this legislative session was that they may not be a massage therapist or have an immediate family member that was a massage therapist. The FSMTB Model Practice Act (page 8) recommends that the consumer member be a resident of the state for no fewer than 3 years, is 21 years of age, and shall not be nor ever been a massage therapist or spouse of a massage therapist, or a person who has had a material financial interest in the profession of massage therapy. When has it hurt the board to have a consumer be licensed in another health care field?

pg 1

Currently there are 5 states that require an educator to be on their board (Kentucky, Missouri, Ohio, Virginia, and Wisconsin); and 9 states that require a professional or physician member to be on their board (Louisiana, Maryland, Mississippi, Montana, New Jersey, New York, North Carolina, Oregon and West Virginia).

If Section 2 passes, as it is written, two of the current board members would not qualify to be on the board.

Section 3 – Under #2 - The Board of Massage doesn't necessarily support changing the word "may" to "shall" under inspections of massage establishments. On line 30 – what does "periodically inspect" mean? Every 5 years? We do inspections every year already. If more inspections are wanted or needed we could increase this number administratively – and not through a Bill. And, what happens if an establishment doesn't get inspected during that "periodic" time span?

All other section changes are similar to or the same as what the ND Board of Massage introduced in Senate Bill No. 2085 that was heard on January 12th by the Senate Industry, Business and Labor Committee where it received a 7-0 Do Pass vote and heard by the full Senate on January 14th and received a unanimous vote of 43-0. It was most recently heard by this committee on March 9th.

I would like to thank you for your time and I would be happy to answer any questions you may have for me at this time.

Wendy

McGinley, Wendy

From: Wendy McGinley <wendymcginley@hotmail.com>
Sent: Monday, March 16, 2015 12:08 PM
To: McGinley, Wendy
Subject: FW: SB 2294 Massage

Wendy McGinley

From: wendymcginley@hotmail.com
To: gkeiser@nd.gov; gsukut@nd.gov; bamerman@nd.gov; tbeadle@nd.gov; rcbecker@nd.gov; jboschee@nd.gov; bdevlin@nd.gov; rfrantsvog@nd.gov; bwhanson@nd.gov; jkasper@nd.gov; vrlaning@nd.gov; mlefor@nd.gov; sclouser@nd.gov; menelson@nd.gov; druby@nd.gov
Subject: SB 2294 Massage
Date: Mon, 16 Mar 2015 12:07:16 -0500

Industry, Business and Labor Committee:

My name is Wendy McGinley and I am a licensed massage therapist and a member of the ND Board of Massage. I am asking that when you hear testimony tomorrow regarding SB 2294 that you know how we have come to this point -

August 29 - meeting regarding possible law changes

September 12 - meeting regarding possible law changes

September 26 - meeting regarding possible law changes

representatives from the

October 24 - quarterly Board meeting

All possible law changes brought to the Board of Massage, Board voted on each proposed option, results went into SB 2085

January 6 - SB 2085 introduced, first reading, referred to IBL Committee

January 12 - testimony on SB 2085 to the Senate Industry, Business and Labor Committee

January 13 - Do Pass 7-0; January 14 - Pass 43-0

Board members - Dianne Aull, Pat Berg, Wendy McGinley - were present at meeting and in support of SB 2085; Dianne Aull gave supporting testimony

January 19 - SB 2294 introduced, first reading, referred to Senate GVA Committee

Edward Erickson made Board aware of SB 2294 on January 26

January 23 - quarterly Board meeting

Board members (Jon Simmons, Dr. Todd Salwey, Wendy McGinley still not aware of SB 2294; no mention of SB 2294 at Board meeting)

January 26 - full Board made aware of SB 2294
January 28 - phone conference regarding SB 2294

Board members Dianne Aull and Pat Berg (both LMTs) stated that they will supporting SB 2294

February 13 - testimony on SB 2294 to the Senate Government and Veterans Affairs Cmte

February 23 - Amended; Do Pass 4-3; Second reading, passed, 31-15

Board members Wendy McGinley, Dr. Todd Salwey, Jon Simmons spoke against SB 2294

Board members Dianne Aull and Pat Berg spoke in support of SB 2294

March 9 - testimony on SB 2085 to the House Industry, Business and Labor Committee

Board member, Wendy McGinley, Exec Secretary, Karen Wojahn, as well as legal counsel, Edward Erickson, spoke in support of SB 2085; Rissa Williams, LMT, also spoke in support of SB 2085

Former Board member, Gail Hovden, made a statement that she was against SB 2085 and is supporting SB 2294; Dianne Aull and Pat Berg were present and against SB 2085

March 17 - testimony to be heard on SB 2294

A lot of work went into SB 2085 and I continue to fully support it. The items that you see in SB 2294 are those items that were not passed by the full Board of Massage. The way that SB 2294 is written, in regards to board composition and the stipulations placed on who can or cannot be a consumer member or massage therapist appointed to the Board, would eliminate 3 of the 5 board members. The only two members left on the Board would be the two that helped propose SB 2294.

So, the questions I am asking you to consider are:

1. Why do we need to change the composition of the board at this time? Is the board not doing what it is tasked to do? Why try changing the composition to 4-1 vs 3-2 (LMTs to consumer members)? The Federation of State Massage Therapy Boards is recommending a composition of 5-2 (LMTs to consumer members). I emailed Dianne Aull regarding this very option and she thought 5 LMTs for a state our size was too many. I would prefer that our board composition stay as it is, but would not be against a composition of 5-2.
2. What does "actively practice" massage therapy mean as it is written on line 18 of page 1 in SB 2294? I am a licensed massage therapist in ND. I complete all of my continuing education, pay my renewal fee on time, and am licensed to practice massage in ND. BUT - I am an educator. I teach massage therapy, I am massaging at least two days a week in class with the students, I do volunteer massages in the community at multiple events, but I do not have an active practice and do not charge those that I do work on at public events. Does this mean that I am not "actively practicing"? At least 5 state massage licensing boards require an educator to be on the board. My job on the board is to look at every applicant's education and see if it meets ND requirements. If it does not, I give recommendations to meet the requirements.
3. Why eliminate a consumer member and put so many stipulations on who that member can or can't be?

Respectfully,

Wendy McGinley

pg 4

McGinley, Wendy

From: Dianne Aull <dianneau1@yahoo.com>
Sent: Friday, February 27, 2015 12:30 PM
To: wendy.mcginley@ndboardofmassage.com
Subject: RE: SB 2294

We did look at the model practice act. However, we only have a little over 700 LMTs so that would be one board member for every 100 therapists and that seemed like a super high ratio when you compare to other states with much larger numbers. Also, it would throw off the budget for being able to inspect every establishment every 2 or 3 years, which everyone thought to be an important leg of the law.

It is my belief that the only problem that would be solved by expanding to a 7 member board would be the temporary discomfort we are all having right now in considering this change, and that in the long run it would create more problems.

It's hard to imagine LMTs on the board would side with colleagues who are violating our law since infractions hurt our entire profession and thereby hurt each of us. The purpose of consumer members is really just to add another perspective that we might not have thought of.

The legislature previously put an extra consumer member on our board because there was infighting on the board and they thought it might remedy that. I can't remember offhand which year that was but I did read through the minutes of that hearing and there was nothing to indicate that they meant it to be a solution for till the end of time.

All that being said, the committee that hears this bill can recommend any amendments, and it would be completely appropriate for you to suggest the seven member option as a possible amendment in your testimony. There may be others who agree with you. I'm sure you're aware that they amended it already to take off the 15 year CEU thing and that was because of testimony people gave.

Also, I hope you understand that I think you are really good board member and have been working really hard and I personally appreciate that. I feel sad that you would feel hurt or insulted by any of this because none of this has anything to do with anyone personally. This is business; not personal. I believe our board could and should function better, and needs to function in a way that is independent of any individual so that as people move off the board, there is no problem for the next board member to step into their shoes and continue to move forward.

In North Dakota, our profession is stuck. We are not growing and in fact we lose as many massage therapist as we add every year because it's so hard and so expensive to be licensed in this state. Massage therapist have been talking about these problems for years and years and we really feel like something has to change and this is a place to start.

Sorry, that's maybe a longer answer that you were looking for

[Sent from Yahoo Mail for iPhone](#)

At Feb 27, 2015, 10:09:10 AM, Wendy McGinley<'wendy.mcginley@ndboardofmassage.com'> wrote:
Dianne:

Quick question -

Did you ever look at the Model Practice Act put out by the FSMTB regarding their view on board composition prior to drafting SB 2294? If not, it states/suggests that a Board be comprised of no fewer than seven members. Five shall be massage therapists and two shall be consumer members. Did you, and whoever else worked on the Bill, consider this as an option? This would ensure representation of professionals and consumers for public protection. I would be more willing to accept this option vs the 4/1 that is being asked for in 2294. It was a legislative action that placed two consumer members on the board and I feel that two consumers should remain.

Thoughts?

Wendy McGinley

MODEL MASSAGE THERAPY PRACTICE ACT



FSMTB
FEDERATION OF STATE
MASSAGE THERAPY BOARDS

Model Massage Therapy Practice Act

First Edition
2014

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FSMTB MISSION STATEMENT

The mission of the Federation is to support its Member Boards in their work to ensure that the practice of massage therapy is provided to the public in a safe and effective manner.

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INTRODUCTION

The Federation of State Massage Therapy Boards (FSMTB) is pleased to present the FSMTB Model Massage Therapy Practice Act. This document is the culmination of 42 months of development undertaken by the FSMTB Model Practice Act Task Force in conjunction with the FSMTB Board of Directors. In addition, the Federation solicited and received comments from interested stakeholders and input from the public was collected through two public comment periods. Input from the public provided the Task Force and Board of Directors with numerous perspectives before finalizing the document. It must be emphasized that the Model Practice Act is a fluid document subject to periodic review and modification as circumstances dictate. The FSMTB Board of Directors intends to charge a committee with the ongoing responsibilities of consistent review of the Model Practice Act and with making recommendations for modification where necessary.

Massage Therapy in the United States has evolved via many different pathways, in both a formalized fashion and via avenues that are far less formal. One of the first schools of Massage Therapy in the United States was established in 1916; as the immigrant population grew, they brought with them the cultural norms that the practice was a fundamental part of their health services; and the ongoing introduction of laws addressed the protection of title to recognize the practice as an established profession. Today, Massage Therapists are frequently working with other professionals as part of a team of health care providers yet they are often excluded from receiving compensation due to lack of both standardization and recognition as an established profession. Massage Therapists are often a first point of contact for the consumer in prevention, identification, assessment, treatment and rehabilitation of many pathologies and conditions. The need for regulation to facilitate the primary Board responsibility of protecting the public and regulating the profession is of paramount importance.

The intent of this document is to provide a comprehensive resource to FSMTB Member Boards and Agencies and to assist regulators with statutory language based upon the collective wisdom of the Massage Therapy regulatory community. FSMTB is keenly aware of the need for flexibility in drafting statutes and rules/regulations as well as the rights of each particular jurisdiction to address the unique needs of each state. However, and as set forth in its mission, vision and values statements, FSMTB promotes uniformity where appropriate and the Model Practice Act is intended to enhance this mission.

The component elements of the scope of practice included three determinants:

- (1) an established history of inclusion in education and training;
- (2) an established history of inclusion in clinical practice; and
- (3) specific statutory authority.

Readers are encouraged to study the definition of the scope of practice to understand the confines of the regulated practice. This step is very important as the profession progresses to a uniformly regulated practice. In addition, the document refers to *licenses, states, and boards* as uniform terminology but the use of these and other

generic terms is with all due respect to alternative words and phrases that describe a regulated profession. It is noted that *states, territories, commonwealths, districts* and other descriptive terms are used to identify the numerous jurisdictions. Also, *license, register, certify* and other terms are used to identify the regulatory credential.

FSMTB is understanding of the need for a certain amount of customization necessary to allow for the concepts contained in this model to be of assistance in each jurisdiction. However, the Model Massage Therapy Practice Act does emphasize a scope of practice and the need for protection of the various titles used by licensees. Readers will also note the protected phrases identifying the many terms and acronyms used within the profession. Again, the intent is to protect the public by limiting both the practice and the use of identified terms and acronyms to those duly licensed by the Board.

From a formatting perspective, the Model Massage Therapy Practice Act is set up in a way that includes the suggested statutory language in the left column with selected comments and other explanations in the right column. It is emphasized that while debate and discussions occurred on virtually every aspect of the suggested model language, not all such discussions can, nor should be captured in the comments. Comments are included in sections where significant debate and discussion took place, as well as in areas where particular interest, debate and/or controversy were identified in the opinion of the expertise of the task force members. FSMTB also relied upon regulatory experts and legal counsel for editing and citations to relevant jurisprudence where necessary.

Readers are encouraged to refer to and use the FSMTB Model Massage Therapy Practice Act as necessary and within the confines of the regulatory structures of their respective state. As noted, this is a fluid document subject to modification as deemed necessary. Readers are encouraged to provide FSMTB staff with written questions and suggestions for review and consideration. Of course, FSMTB Member Boards and Agencies also have a mechanism through the resolution process to stimulate constructive debate and discussions regarding future changes to the FSMTB Model Massage Therapy Practice Act.

Again, the FSMTB Board of Directors and Member Boards and Agencies should be proud of this very important resource document. We convey a special thanks to the Model Practice Act Task Force members and other contributors who made this document a reality. The volunteers provided countless hours of their time to the project and their efforts are hereby acknowledged and recognized. We invite both your use of this Model Massage Therapy Practice Act and your ongoing interest in future versions of this essential resource for Member Boards and Agencies and the public we serve.



ACKNOWLEDGEMENTS

The Model Practice Act Task Force of the Federation of State Massage Therapy Boards served from April 2011 until the completion of their task in October 2014. Acknowledgment and appreciation are extended to them, to Federation staff, to the Entry Level Analysis Project work group and to many others who reviewed and contributed comments, particularly during the public comment periods.

MPA Task Force

Jane Johnson, LMT - Task Force Chair, Georgia Board of Massage Therapy

Ramona Chance, LMT - FSMTB Board of Directors, State Medical Board of Ohio
Massage Therapy Advisory Committee

Kathleen Doyle, PhD - Executive Secretary, New York State Board for Massage
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Yvonne Feinleib - Texas Department of State Health Services Massage Therapy
Program

Karen Ford, LMT - Florida Board of Massage Therapy

Richard Greeley, LMT - State Medical Board of Ohio Massage Therapy Advisory
Committee

Deborah Overholt, LMBT (until May 2014) - New Jersey Board of Massage and
Bodywork Therapy

Heather Speight, LMT - Oregon Board of Massage Therapists

Carolyn Talley-Porter, LMT - South Carolina Board of Massage/Bodywork Therapy

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Dale Atkinson, JD, FSMTB Counsel

Sally Hacking, MSN, RN, FSMTB Director of Government Relations

Joshua Scott, MA, JD, FSMTB Assistant Director of Government Relations

ARTICLE I. TITLE, PURPOSE

SECTION 101. TITLE OF ACT

This Act shall be known as the _____ (name of jurisdiction) Massage Therapy Practice Act.

SECTION 101. TITLE OF ACT

The decision to name the Act, "Massage Therapy Practice Act," is based on historical use of terminology in the United States, on consumer recognition of terms, on legal recommendations, and on the similarity of job tasks performed by an increasingly wide range of practitioners.

The FSMTB Model Practice Act Task Force spent considerable time discussing terminology and is sympathetic to the variety of terms and phrases used throughout the industry and regulation thereof. Indeed, the title of the document was the subject of significant debate and discussion before arriving at a title that includes practice sometimes referred to as "bodywork," yet places the consumer as the guiding force in terms of recognition and use of the term "Massage Therapy." The intent of the title "Massage Therapy Practice Act" is to capture the broad and varying terms, phrases and scopes into one universal title. This decision was based, in part, on recognition of the many approaches to practice, but is not meant to create differing scopes, nor exemptions, for each such approach.

With the selection of the title "Massage Therapy Practice Act," the regulation of Massage Therapy is inclusive of bodywork approaches to professional practice that manipulate soft-tissue or use structured touch. The focus of regulation is upon public protection, primarily consumers

receiving massage therapy services, and as such, Massage Therapy is the term that is used and recognized by a large percentage of the consuming public with near universal recognition. In addition, Massage Therapy is recognized by the professions and society at large, and it is the most prevalent designation used by States that include the practice of bodywork in regulation.

Bodywork methods based on movement or the manipulation of energy where the body is not physically touched, would not be regulated by this Act. However, any practitioner, regardless of the title designation he or she adopts, that uses methods that manipulate soft-tissue and are covered by the Massage Therapy scope of practice, would be subject to the provisions of this Act. Practitioners who manipulate soft-tissue in any way, must hold Massage Therapy credentials as defined in this Act.

This Model Massage Therapy Practice Act attempts to bring together a unified system of recognition that will protect the consumer and assist in portability of licensure. The broad umbrella of the Model Practice Act will most effectively protect the public in the future as the profession continues to grow.

SECTION 102. LEGISLATIVE DECLARATION

The purpose of this Act is to protect the health, safety and welfare of the public. The Legislature declares that the practice

SECTION 102. LEGISLATIVE DECLARATION

It must be specifically recognized that the protection of the public is the purpose for the enactment of this Practice Act. A legislative

of Massage Therapy is a healthcare profession in need of regulation and that only qualified persons be permitted to engage in the practice as defined herein.

It is declared that the practice of Massage Therapy merit and receive the confidence of the public through the enforcement of this Act, any applicable regulations, and other relevant laws. It is further declared that this Act is intended to fully occupy the entire field of Massage Therapy and that any city, county, or subdivision thereof is prohibited from adopting laws that infringe on the scope of this Act. This Act shall be liberally construed to effectuate the broad purpose of protecting the health, safety and welfare of the public.

SECTION 103. DEFINITIONS

- (A) Applicant means an individual seeking licensure under this Act who has submitted an application and fee to the Board.

- (B) Approved Massage Therapy Education Program means a school or educational program that meets the criteria established in rule by the Board, at a minimum includes 625 Clock Hours, and is both authorized in the jurisdiction in which it is located and that reflects a curriculum acceptable to an accrediting body recognized by the U.S. Department of Education. Education received outside of the

declaration is an essential component to set forth the purpose of the law and affirmatively state the public protection mission.

Based upon recent case law, this declaration also includes an intent for the statute to encompass the entire field of regulating the profession, to the exclusion of ad hoc regulation on a local basis.

Further, the public confidence is dependent upon the state to evaluate and affirm the qualifications for licensure of Massage Therapists, thus ensuring the public safety through licensure and regulation.

SECTION 103. DEFINITIONS

Definitions of terms used throughout the Model Practice Act are necessary to ensure that terms are defined and consistently used throughout the document and provide the basis for the legal interpretation of the law by regulators, legislators and courts. Readers will note that capitalized terms used throughout the Model Practice Act can be found in the definitions section.

SECTION 103(B). DEFINITIONS

- (B) Consistent with the comprehensive review and analyses undertaken by the Entry Level Analysis Project (ELAP) workgroup, the Model Practice Act acknowledges the 625 hours of entry-level education recommended by the ELAP. The ELAP recommends that the 625 hours include the following content areas:

United States must be substantially equivalent to the criteria of this Act and must be recognized by the jurisdiction in which it is located.

1. Massage Theory and Principles
2. Massage Professional Practices
3. The Therapeutic Relationship
4. Anatomy, Physiology, and Pathology
5. Assessment and Documentation
6. Massage and Bodywork Application
7. Palpation and Movement
8. Adapting Sessions for Clients; and
9. Career Development

It is the intent of the Model Practice Act to suggest that the details of the educational requirements be promulgated into rules/regulations, rather than specifically included in the statute. The specifics of the ELAP findings and recommendations can be found in a separate document (www.elapmassage.org).

In addition to the recognition of the ELAP recommendations, it is intended that eventually all those who enter the profession shall have received an accredited education. Accreditation enables State Boards to approve massage schools through a nationally established standard of accreditation and would promote educational quality and increase portability by eliminating the need for individual states to devise their own standards.

Currently, programmatic accreditation is available for a diverse array of programs such as Asian bodywork therapy, Massage Therapy, structural integration and reflexology. However, during a transitional period before accreditation is accepted as a standard of education, as the profession evolves, it is recommended that all educational institutions adopt a curriculum that

reflects the ELAP recommendations and that is acceptable to an accrediting body recognized by the U.S. Department of Education.

- (C) Board means the State Board of Massage Therapy as provided in this Act or its authorized representatives.
- (D) Client means the individual that seeks or receives Massage Therapy services. Client status is not dependent on billing or payment of fees for such services.
- (E) Clock Hour means a full sixty (60) minute period, with at least fifty (50) minutes of instruction or learning activities.
- (F) Consumer Member means a person who is a resident of this state for not fewer than three (3) years, who has attained 21 years of age, and shall not be nor ever have been a Massage Therapist or the spouse thereof, or a person who has had a material financial interest in the profession of Massage Therapy.
- (G) Continuing Education means education and training that maintains, improves, or enhances Massage Therapy practice.

SECTION 103(D). DEFINITIONS

(D) The Client definition is inclusive of Massage Therapy services provided with or without compensation. Massage Therapy practice as defined includes service without compensation. Client and Patient may be used interchangeably.

SECTION 103(G). DEFINITIONS

(G) The Practice Act empowers the Board to approve and recognize Continuing Education. Such delegation of authority from the state legislature to a governmental agency is constitutionally acceptable.

(H) Continuing Professional Competence means a set of requirements Licensees must meet that are designed to ensure the minimum standards necessary for public protection and licensure renewal.

(I) Conviction shall include a finding of guilt, an admission of guilt or plea of nolo contendere, regardless of adjudication.

(J) Currently Enrolled Student means a student who is actively participating in an Approved Massage Therapy Education Program.

(K) Examination means a standardized test or examination of entry-level massage and bodywork knowledge, skills, and abilities that is developed and administered by the Federation of State Massage Therapy Boards and approved by the Board.

(L) Felony means a criminal act as defined by this state or any other state, or by definition under federal law.

(M) Final Adverse Actions under this statute are intended to encompass, at a minimum, all actions that require reporting to state or federal authorities, including but not limited to the Healthcare Integrity and Protection Data Bank (HIPDB)/ National Practitioner Data Bank (NPDB).

SECTION 103(I). DEFINITIONS

(I) The Conviction definition is intended to include all results that are entered by the criminal court.

SECTION 103(M). DEFINITIONS

(M) Final Adverse Action means any action taken or order entered by the Board, whether through a consent agreement, as the result of a contested hearing, issued through a letter of reprimand/admonition/warning, or other action against a Licensee, Applicant or individual which is public information under applicable law and which impacts the licensure status or record, practice status or record, or other related practice privileges. Final Adverse

Actions include, in addition to the above and without limitations, denial of licensure applications, denial of licensure renewal applications, and surrender of licensure. Board actions or orders are Final Adverse Actions irrespective of any pending appeals.

- (N) Licensee means a person duly licensed under this Act.
- (O) Massage Therapist means an individual licensed to practice Massage Therapy.
- (P) Massage Therapy means the practice defined in Section 104.

SECTION 104. PRACTICE OF MASSAGE THERAPY

- (A) The practice of Massage Therapy means the manual application of a system of structured touch to the soft tissues of the human body, including but not limited to:
 - (1) Assessment, evaluation, or treatment;
 - (2) Pressure, friction, stroking, rocking, gliding, kneading, percussion or vibration;
 - (3) Active or passive stretching of the body within the normal anatomical range of movement;
 - (4) Use of manual methods or mechanical or electrical devices or tools that mimic or enhance the action of human hands;

SECTION 104. PRACTICE OF MASSAGE THERAPY

The statutory definition of the scope of practice is the foundation of legislation regulating a profession. Section 104 defines the practice of Massage Therapy and sets the parameters or scope of practice dictating who must become licensed to lawfully practice.

The definition uses broad descriptions reflecting practice rather than identifying therapeutic approaches by name.

This broad language recognizes the authority of the Board to interpret the services and activities defined in the scope through rulemaking and customary administrative operations.

The defined scope of practice takes into consideration the approaches, services and activities of current and evolving practice.

- (5) Use of topical applications such as lubricants, scrubs, or herbal preparations;
- (6) Use of hot or cold applications;
- (7) Use of hydrotherapy;
- (8) Client education.

This scope of practice will require otherwise unlicensed persons who currently engage in these practices to become licensed.

SECTION 105. SPECIAL PROVISIONS

(A) Temporary Practice

(1) Currently Enrolled Students

This Act shall not be construed to apply to or restrict a Currently Enrolled Student in an Approved Massage Therapy Education Program from engaging in the practice of Massage Therapy, provided the practice, conduct, activities or services constitute a part of a required course of study in the program and that such persons are identified as students.

(2) Planned Events

- (a) This Act shall not be construed to apply to or restrict an individual currently licensed and in good standing to practice Massage Therapy in another jurisdiction from engaging in the practice of Massage Therapy in this jurisdiction on a temporary basis for a period of not more than 30 days or not longer than the period of the event, whichever is less.

SECTION 105. SPECIAL PROVISIONS

Practice acts commonly include provisions to recognize that under certain circumstances, persons duly qualified and/or licensed may continue to lawfully engage in their practices.

Those persons licensed under professions with overlapping scopes are governed by and adhere to the rules of their own regulated professions.

The Practice Act specifically avoids the use of the term "exemptions" to reinforce the importance of licensure and promote the fact that persons must obtain governmental permission to practice based upon delineated criteria.

Permission to practice without licensure is established for several purposes:

- 1) To recognize students who are learning the practice and may offer the service, or use training titles related to the profession within an educational setting and under the auspices of the educational program;

- (b) Practitioners seeking temporary practice privileges under this section 105(A)(2) must submit a prior written application as prescribed by the Board. Such temporary practice privileges shall apply for no more than thirty (30) days per year and are limited to both the scope of practice of this state and the scope of permitted acts in section (c) below. Persons who wish to practice beyond the thirty (30) day temporary period must apply for and receive licensure.
- (c) The scope of permitted acts under this section 105(A)(2) is limited to acts related to the practice of Massage Therapy at planned event(s) and on identified persons of an identified team or participants at planned event(s) including visiting sports teams, planned athletic events, and education seminars. Practitioners under this subsection are not authorized to practice Massage Therapy on the general public.
- (d) Practitioners who provide services under this section 105(A)(2) shall be deemed to have submitted to the jurisdiction of the Board and be bound by the laws of this state.

(3) Declared Emergencies

- (a) This Act shall not be construed to apply to or

2) To recognize temporary practice at planned events such as travel to treat with sports teams, educational settings, and Client transitions. Such temporary practice is dependent upon an application submitted to the Board;

3) To ensure that those duly licensed in other professions whose scopes may overlap are specifically able to continue to engage in the activity;

4) To recognize those practitioners who engage in the practice in restricted settings that provide administrative oversight may continue to do so as a benefit to the public.

It is noted that sections 105(A)(2) and 105(A)(3) recognize the right of duly licensed practitioners to temporarily practice within the state. However, such a practice privilege is not based on the issuance of a temporary license, but rather on the fact that such practitioner is licensed and in good standing in another state.

restrict an individual currently licensed and in good standing to practice Massage Therapy in another jurisdiction from engaging in the practice of Massage Therapy on a temporary basis and in response to a disaster or emergency declared by the appropriate authority or Governor of this state.

- (b) Practitioners seeking temporary privileges under this section 105(A)(3) must provide written notification to and as prescribed by the Board and are only eligible to engage in temporary practice during the time of such declared emergency.

(4) Other Licensed Practitioners

Practitioners licensed in other jurisdictions may participate in Continuing Education programs but are not authorized to practice Massage Therapy on the general public.

(B) Service to Family Members

This Act shall not be construed to apply to or restrict an individual from providing services related to the domestic care of any family member or household member as long as such persons do not offer, hold out, or claim to be a Massage Therapist.

SECTION 106. TITLE PROTECTION AND PROTECTED TERMS

- (A) No person or entity shall use the words *Massage Therapy*, *bodywork therapy*, or *massage-bodywork therapist*, *Massage Therapist*, *bodywork therapist*, or *massage*, or *Licensed Massage Therapist* or the acronym "LMT" or any other words, abbreviations or insignia indicating or implying, directly or indirectly, that Massage Therapy is provided, or supplied, unless such persons are licensed pursuant to this Act.
- (B) A Massage Therapist must conspicuously display the license to practice Massage Therapy and must use the acronym "LMT" to designate licensure under this Act.

SECTION 106. TITLE PROTECTION AND PROTECTED TERMS

This section addresses the various titles, acronyms and abbreviations used to describe Massage Therapists. The State Legislature grants scope of practice privileges and imposes certain restrictions on the use of titles and terms for public protection. The use of the title "Massage Therapist" connotes education and training in a unique body of knowledge and skill exclusive to Massage Therapists.

Title protection encompasses the titles, acronyms and abbreviations that are associated with Massage Therapy licensure. Section 106(A) addresses all such titles, acronyms and abbreviations applicable to Massage Therapy licensure.

Title protection as outlined in this Act prevents misuse of the title in order to avoid unethical, untrained, unlicensed and non-competent practice.

"LMT" is the protected professional regulatory title to be used by Massage Therapists in the United States under this Act. For public protection, this Act requires the Licensee to use the title when a Licensee interacts with Clients or advertises the availability of Massage Therapy. This Act does not prohibit additional advanced practice titles to also be recognized.

ARTICLE II. BOARD OF MASSAGE THERAPY

SECTION 201. DESIGNATION

The Legislature hereby creates the Board of Massage Therapy. The Board shall function to carry out the provisions of this Act in a manner that at all times promotes the highest interest of public health, safety and welfare.

SECTION 202. BOARD COMPOSITION AND QUALIFICATIONS

- (A) The Board shall be comprised of not fewer than seven (7) members, appointed by the Governor.
- (B) At all times, at least five (5) members shall be Massage Therapists licensed and in good standing who shall have been engaged in the practice of Massage Therapy for not less than five (5) consecutive years preceding the date of appointment.
- (C) At least two (2) members shall be Consumer Members.
- (D) At all relevant times each Board member shall be a citizen of the United States and a resident of this state for not fewer than three (3) years.

SECTION 201. DESIGNATION

This section creates the Board of Massage Therapy and affirms the legislative intent of protecting the public by establishing license qualifications for the practice of Massage Therapy and a governing body to enforce this Act.

SECTION 202. BOARD COMPOSITION AND QUALIFICATIONS

Not less than seven (7) members, including at least two (2) Consumer Members ensures representation from professionals and consumers for public protection.

While Consumer Members are specifically delineated in the Practice Act, all Board members must be uncompromising in their interests and advocacy on behalf of the public. A spouse or immediate family member of a Licensee shall not be a Consumer Member.

The Board should consider the requirement of new Board member orientation and training to properly introduce all duties and responsibilities of the Board and its members. This should include but is not limited to, providing up-to-date statutes and rules, Board policies, historical documents, roles of the department and other staff whose interaction with the Board is paramount, such as Board attorneys, executive director, prosecuting attorneys and administrative law judges.

SECTION 203. APPOINTMENTS

Members of the Board shall be appointed in accordance with the provisions of this Article and the State Constitution.

SECTION 204. TERMS OF OFFICE

- (A) Members of the Board shall be appointed for a term of four (4) years. Appointments to fill a vacancy of an unexpired term shall fill the unexpired portion of the term.
- (B) No member of the Board shall serve more than two (2) consecutive full terms. The completion of an unexpired term shall not constitute a full term for purposes of this subsection.
- (C) The terms of the members of the Board shall be staggered. The initial Board shall be comprised of three (3) members appointed for four (4) year terms, two (2) members for three (3) year terms, and two (2) members for two (2) year terms. Each such appointee to the initial Board shall only be eligible for reappointment for one (1) additional four (4) year term.

SECTION 204(C). TERMS OF OFFICE

Initial staggered appointments allow for the continuity of an experienced Board so that all Board Members do not rotate from the Board at the same time.

Four (4) year terms support the structure for gaining future qualified leadership and retention of experienced Board Members.

SECTION 205. VACANCIES

- (A) Vacancies on the Board occurring prior to the expiration of a term shall be filled in accordance with Section 203.

SECTION 205(A). VACANCIES

This section ensures that the Board maintains a quorum and is operating with no ongoing vacancies. A fully constituted Board preserves the Board's authority to fulfill its duties and responsibilities.

(B) If a vacancy is not filled within 12 months, the Board shall be empowered to fill such vacancy by a 2/3 majority vote of the remaining Board members.

SECTION 206. REMOVAL

A Board member may be suspended or removed for unprofessional conduct, refusal or inability of a Board member to perform his or her duties as a member of the Board in an efficient, responsible and professional manner, Conviction of a Felony or of any crime related to the practice of a health care profession, failure to meet the qualifications of this Act, or committing any act prohibited by this Act.

SECTION 207. OFFICERS AND TERMS OF OFFICE

- (A) The Board shall elect from its members a Chair and a Vice Chair and such other officers as it deems appropriate and necessary to conduct its business. The Chair shall preside at meetings of the Board, shall be responsible for the performance of all the duties and functions of the Board and shall perform those duties customarily associated with the position and such other duties assigned by the Board. The Vice Chair will serve in the absence of the Chair.
- (B) Officers shall serve terms of one (1) year commencing with the day of their election and ending upon election of their successors.

SECTION 205(B). VACANCIES

This section provides assurances that the duties and responsibilities of the Board will not be compromised due to vacancies and lack of quorum.

SECTION 206. REMOVAL

After a Board member is appointed, there must be a mechanism in place for removal of a Board member when conduct warrants such action.

SECTION 207(A). OFFICERS AND TERMS OF OFFICE

The Board Chair and Vice Chair will be elected by the Board. The Chair presides over meetings of the Board and conducts its business in an orderly fashion. The duties of Chair and Vice Chair shall be defined in Board rule or policy.

SECTION 208. COMPENSATION OF BOARD MEMBERS

- (A) Unless otherwise provided by law, a Board member shall receive a per diem and reimbursement in accordance with the state administrative code.
- (B) Each Board member shall receive compensation, as identified in 208(A), for attendance at official meetings of the Board and Board committees or any meeting that constitutes Board business, including teleconference calls or other Board responsibilities.

SECTION 209. MEETINGS

The Board shall meet at least once, in person, annually and may meet as often as is necessary to conduct Board business and conduct hearings. The Chair of the Board shall have the authority to call other meetings at her or his discretion. Meetings may be conducted by electronic medium and shall be in accordance with state meeting law. A quorum shall be necessary to conduct official Board business or any committee thereof. The Board may go into executive session according to relevant law.

SECTION 210. POWERS, RESPONSIBILITIES AND DUTIES

- (A) The Board shall have the authority to implement, interpret, and enforce this Act, including, but not limited to the authority to:
 - (1) Evaluate the qualifications of Applicants for licensure;

SECTION 209. MEETINGS

This section sets a minimum frequency that the Board must meet. Annual meetings may not be sufficient to carry out all functions of Board business and regulation of the profession.

All meetings must comply with any applicable state open meeting laws and state guidelines regarding access and notice to the public.

SECTION 210. POWERS, RESPONSIBILITIES AND DUTIES

This section identifies the Powers, Responsibilities and Duties of the Board. Boards of Massage Therapy are created and empowered by statute and can only undertake those activities authorized by law. This section outlines these fundamental duties and responsibilities and is

- (2) Assess entry-level competence through the use of the Examination;
- (3) Issue and renew a license to Applicants who meet licensure qualifications of this Act and all rules applicable to this Act promulgated by the Board;
- (4) Establish and enforce compliance with professional standards of practice and rules of conduct;
- (5) Establish and enforce educational standards for recognition, approval and withdrawal of approval of programs or schools of Massage Therapy;
- (6) Collect demographic data of Licensees and the profession;
- (7) Inspect any licensed person or facility/entity at reasonable hours for the purpose of enforcement of this Act;
- (8) Establish and collect fees necessary for sustaining regulation of this profession and carrying out this Act;
- (9) Maintain a database of all Licensees, including disciplinary data;
- (10) Employ personnel to carry out administrative work of the Board and the necessary functions of this Act;
- (11) Enter into contracts for services as necessary for enforcement of this Act;
- (12) Issue an annual report;

drafted broadly to ensure that it can effectively meet its public protection obligations.

Generally under Section 210 and specifically under (4) and (5), the Board is authorized to establish and enforce professional standards and educational standards. Similar to the reliance by the Board on a uniform licensure Examination developed and administered by the FSMTB, the Board can also recognize the necessary standards or educational criteria established by FSMTB or other relevant organizations. The recognition of the standards will be promulgated in the rules/regulations. Inclusions of such standards in the statute create legal and practical issues that may call into question its legal enforceability.

The Board is authorized to exercise its discretion in accepting a variety of programs as meeting required education under the Approved Massage Therapy Education Program definition. If deemed adequate, the Board may consider accepting accredited institutional or programmatic education as one criterion in determining acceptable education.

- (13) Exercise their authority to impose discipline in accordance with this Act;
- (14) Enter into appropriate data sharing information agreements according to state or federal law;
- (15) Establish and enforce standards of practice and codes of conduct;
- (16) Investigate and administratively prosecute any allegations of wrongdoing undertaken by any person, entity, Licensee, or organization;
- (17) Issue subpoenas for oral testimony, deposition testimony, and production of relevant documents necessary to investigate duly filed complaints and administratively prosecute persons accused of violating this Act;
- (18) Impose administrative discipline upon any person or entity, or organization as set forth in Section 402;
- (19) Undertake such other duties, powers, and authority as may be necessary to the enforcement of

SECTION 210(14). POWERS, RESPONSIBILITIES AND DUTIES

(14) Allows use of the FSMTB Massage Therapy Licensing Database, and other resources, in assessing licensure eligibility and complaints.

SECTION 210(15). POWERS, RESPONSIBILITIES AND DUTIES

(15) Provides the Board with the authority to establish a Code of Conduct and oversee the client-therapist relationship. A code of conduct is a summary statement of the standards of conduct that define ethical, professional practice of Massage Therapy.

this Act and rules duly promulgated hereunder, determined to be in the interest of public protection through the regulation of the profession.

- (B) The Board shall establish qualifications and uphold standards of entry-level competence for licensure into the profession in accordance with this Act. These requirements shall include but are not limited to educational training and experience, examination requirements and endorsement requirements for those licensed by other states or jurisdictions.
- (C) The Board shall establish a schedule of fees by rule sufficient to cover the costs of administering this Act.
- (D) In addition to any fees specifically provided for herein, the Board shall have the authority to assess additional fees for services rendered to carry out its duties and responsibilities as required under law, including but not limited to:
 - (1) Issuance of duplicate licenses;
 - (2) Copies of requested documents;
 - (3) Certification of documents;
 - (4) Certification of licensure status;
 - (5) Notices of meetings;
 - (6) Materials relevant to licensure and renewal of licensure.
- (E) Notwithstanding any other law to the contrary, the Board shall publish on a timely basis Final Adverse Actions duly entered. Publication of Final Adverse Actions shall include, but not be limited to, reporting to any applicable state and federal repository of final Board actions. The Board may report Final Adverse Actions to any data bank maintained by an organization of which the Board is a member.

SECTION 211. RULES

- (A) The Board shall make, adopt, amend, and repeal such rules as may be deemed necessary by the Board from time to time for the proper administration and enforcement of this Act.
- (B) Such rules shall be promulgated in accordance with state law.

SECTION 212. SOURCE OF EXAMINATION AND DATA SHARING

- (A) In making determinations under this Act and to promote uniformity and administrative efficiencies, the Board shall be empowered to:
 - (1) Recognize the Examination as a measure for entry-level competence;
 - (2) Accept and use the documentation and verified data gathered and stored by a not-for-profit organization whose membership and mission are consistent with the Board and its public protection mission.

SECTION 211. RULES

This section provides the Board with broad authority to adopt and revise specific rules that effectively implement the statute. Including general language in the enacted statute and more specific language in rules provides an ongoing opportunity for the Board to draw on the professional expertise of its Board members, as well as any interested stakeholders, while focusing on evolving issues of public protection related to the regulated profession.

SECTION 212. SOURCE OF EXAMINATION AND DATA SHARING

This section authorizes the Board to recognize the services and programs of the FSMTB as an organization whose membership and mission are consistent with its member Boards.

The FSMTB Massage & Bodywork Licensing Examination (MBLEx) is a legally defensible, entry-level Examination validated for use in a licensure setting and owned by the Member Boards that rely upon it in making eligibility determinations. It is imperative that the entry-level Examination be psychometrically valid and legally defensible for use in a licensure setting.

Some states by law may require an additional contractual relationship when taking advantage of these programs and services.

ARTICLE III. LICENSING

SECTION 301. QUALIFICATIONS FOR INITIAL LICENSURE

- (A) To obtain a license to practice Massage Therapy, an Applicant for initial licensure must provide evidence satisfactory to the Board, that the Applicant:
- (1) Has submitted a complete application in the form prescribed by the Board along with any required supporting documentation;
 - (2) Has paid all applicable fees specified by the Board relative to the licensure process;
 - (3) Is at least eighteen (18) years of age;
 - (4) Has a high school diploma or equivalent;
 - (5) Has graduated from an Approved Massage Therapy Education Program;
 - (6) Has successfully passed the Examination developed and administered by the Federation of State Massage Therapy Boards (FSMTB);

SECTION 301. QUALIFICATIONS FOR INITIAL LICENSURE

This section addresses the necessary criteria for initial licensure. The detailed procedural requirements for license applications should be outlined in rules and/or policy rather than statute. This allows the Board to determine the content of the application and the required documents, including consent to criminal history check and/or fingerprints.

SECTION 301(A)(6). QUALIFICATIONS FOR INITIAL LICENSURE

(6) Recognizes the FSMTB Examination has been validated for use in the licensure process as an entry-level determinant of competence. The additional language provides flexibility for the Board to determine which Examinations support portability and ensure entry level competence. This wording also permits state-specific exams on the law/rules.

(7) Has attested to knowledge of laws applicable to Massage Therapy in a manner prescribed by the Board;

(8) Is of good moral character; and

SECTION 301(A)(8). QUALIFICATIONS FOR INITIAL LICENSURE

(8) When information is received by the Board that indicates that an Applicant has been convicted of a crime or has committed an act which raises a reasonable question as to the Applicant's moral character, the Board shall undertake a process established by rule to determine that the Applicant possesses the good moral character required to protect the health, safety and welfare of the public.

(9) Has submitted fingerprints for the purpose of a state and federal criminal records check pursuant to _____ (citation to statute). Criminal records checks will be considered for purposes of qualifications for licensure to the extent permitted by law.

SECTION 302. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT

(A) Persons who are licensed to practice Massage Therapy in another jurisdiction may seek licensure in this state through licensure by endorsement. To obtain a license to practice Massage Therapy by endorsement, the Applicant must provide evidence satisfactory to the Board that the Applicant:

(1) Is licensed in good standing in any other state, territory, or jurisdiction of the United States;

SECTION 302. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT

This section provides a path to licensure for those who are currently licensed in another state or jurisdiction and demonstrate the ability to practice safely and competently.

- (2) Has actively practiced for at least two (2) of the last three (3) years;

- (3) Has passed the Examination or another examination acceptable to the Board which was taken for the purpose of licensure in that jurisdiction; and

- (4) Has presented to the Board proof that any other Massage Therapy license or any other professional license granted to the Applicant in any other state, territory, or jurisdiction in the United States has not been subject to suspension, revocation, or otherwise restricted in any manner for disciplinary purposes.

SECTION 302(A)(2). QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT

- (2) The Board will define active practice and establish it in rule.

SECTION 303. RECOGNITION OF PRACTITIONERS ON THE EFFECTIVE DATE

- (A) Notwithstanding the qualifications under Section 301 and for a period not to exceed two (2) years from the effective date of this Act, persons who have engaged in the practice of Massage Therapy or have taught core clinical courses at an Approved Massage Therapy Education Program may be eligible for licensure. Applicants for licensure under this Section 303 must provide evidence satisfactory to the Board of the following:
 - (1) Has submitted a complete application in the form prescribed by the Board along with any required supporting documentation;

SECTION 303. RECOGNITION OF PRACTITIONERS ON THE EFFECTIVE DATE

This section addresses a transitional period whereby individuals currently practicing are recognized by statute as having a right to continue to practice. "Grandparenting" provisions commonly apply to the sections of law that address licensure, for a limited period of time, for persons engaged in the practice of the profession under specific conditions prior to the effective date of the licensure law. These provisions take into consideration the need to recognize an existing practitioner's right to work. Individuals under this section must still apply for and be granted a license in order to lawfully continue to practice.

- (2) Has paid all applicable fees specified by the Board relative to the licensure process;
- (3) Is at least eighteen (18) years of age;
- (4) Has a high school diploma or equivalent;
- (5)
 - (a) Has regularly practiced Massage Therapy in this state for at least two (2) of the last three (3) years; or
 - (b) Has regularly taught core clinical courses at an Approved Massage Therapy Education Program in this state for two (2) of the last three (3) years; and
- (6) Has attested to knowledge of laws applicable to Massage Therapy in a manner prescribed by the Board;
- (7) Is of good moral character; and
- (8) Has submitted fingerprints for the purpose of a state and federal criminal records check pursuant to _____ (citation to statute). Criminal records checks will be considered for purposes of qualifications for licensure to the extent permitted by law.

SECTION 303(A)(5). RECOGNITION OF PRACTITIONERS ON THE EFFECTIVE DATE

(5) Requires Applicants under this section to have remained in current practice or have taught at an Approved Massage Therapy Education Program in this state for at least two of the last three years. As noted, practice/teaching must have occurred in this state in order to qualify for licensure with the intent of not allowing practice/teaching in other states to be a qualifying event(s).




SECTION 304. LICENSURE RENEWAL REQUIREMENTS

The Board shall establish by rule, the time and manner for renewal of licensure that shall include Continuing Education requirements and renewal fees. The Board may request additional information from renewal Applicants.

SECTION 305. CONTINUING PROFESSIONAL COMPETENCE

The Board shall establish by rule the Continuing Education requirements for licensure renewal including the acceptable program content.



SECTION 304. LICENSURE RENEWAL REQUIREMENTS

This section ensures that licensure renewal continues to protect the public by requiring Licensees to regularly meet the qualifications for continued licensure.

SECTION 305. CONTINUING PROFESSIONAL COMPETENCE

This section is consistent with the FSMTB Licensure Renewal recommendation.

The requirements for the promulgation of rules/regulations regarding license renewal promote the Board's mission of public protection. Under this section the Board has the flexibility to determine the nature of such Continuing Education requirements, taking into consideration factors related to continuing competence.

ARTICLE IV. DISCIPLINE

SECTION 401. COMPLAINTS

- (A) The Board is authorized to initiate and investigate complaints alleging a violation of the Act or rules.
- (B) The Board shall keep a record of all complaints received and the resolution of each complaint, including any Final Adverse Action rendered.

SECTION 402. DISCIPLINARY ACTIONS, SUMMARY SUSPENSION, GROUNDS

- (A) Disciplinary Actions: The Board, upon proper notice and with opportunity for a hearing, may impose the following disciplinary actions upon any person or entity for one or more of the Grounds for Disciplinary Action in 402(C) of this subsection:
 - (1) Refuse to issue, renew, or reinstate a license;
 - (2) Revoke, suspend, restrict, or limit a license;
 - (3) Place a license holder on probation, including placing limits on the Licensee's practice and/or requiring supervision;
 - (4) Issue a reprimand;
 - (5) Issue a cease and desist letter;
 - (6) Require payment of a fine;

SECTION 401. COMPLAINTS

This section ensures that the Board fulfills its public protection mission by addressing complaints through a formal process while recognizing the legal rights of all parties involved. Usually such legal rights are set forth in an Administrative Procedures Act and covered under constitutional due process protections.

SECTION 402. DISCIPLINARY ACTIONS, SUMMARY SUSPENSION, GROUNDS

This section establishes that the Board has the authority to resolve complaints by imposing one or more of an extensive list of disciplinary actions against persons alleged to have violated the Act or rules/regulations.

Note that a license surrender that resolves a complaint is considered disciplinary action.

- (7) Require payment of the investigative and administrative costs associated with the complaint and any administrative prosecution thereof, including attorney's fees;
- (8) Require completion of remedial education;
- (9) Require physical or mental evaluation for fitness to practice and/or relevant treatment;
- (10) Enter into a consent order or settlement agreement;
- (11) Such other administrative discipline necessary to carry out the mission of public protection of this Act.

(B) Summary Suspension: The Board may impose an immediate suspension of licensure in cases where continued practice by a Massage Therapist poses an imminent and continuing threat to public health, welfare or safety so long as the Board schedules a hearing to occur within 60 days of the effective date of the suspension order.

(C) Grounds for Disciplinary Action: The following shall be grounds for the Board to impose one or more disciplinary actions:

- (1) Conduct that violates any provision of this Act or Board rules adopted hereunder,

SECTION 402(B). DISCIPLINARY ACTIONS, SUMMARY SUSPENSION, GROUNDS

Section 402(B) authorizes the Board to impose immediate license suspension without a hearing to protect the public, while preserving the Licensee's right to request a hearing on the allegations within a reasonable amount of time as determined by state law. This summary suspension authority is limited to circumstances involving imminent and continued threat to the public.

SECTION 402(C). DISCIPLINARY ACTIONS, SUMMARY SUSPENSION, GROUNDS

This section delineates the grounds for discipline intended to specify the bases for adverse actions against persons. Some of the grounds for

- including a violation of the standards of practice and codes of conduct adopted by the Board;
- (2) Aiding or abetting another person in the violation of this Act or Board rules;
 - (3) Fraud, deceit or misrepresentation in obtaining or attempting to obtain or renew a license or;
 - (4) Aiding and or abetting another person or entity in the unlicensed practice of Massage Therapy;
 - (5) Misuse of a license certificate, including sale or barter of a license; use of another's license; or allowing use of a license by an unlicensed person or entity;
 - (6) Practicing outside the scope of authority, training and education;
 - (7) Delegation of professional responsibilities to a person who is not educated or trained to undertake such responsibilities;
 - (8) Incapacity or impairment that prevents such Licensee from engaging in the practice of Massage Therapy with reasonable skill, competence, and safety;
 - (9) Conviction of:
 - (i) a felony;
 - (ii) any crime related to the practice of Massage Therapy;
 - (10) Violations of the laws or rules of this state, violations of the laws or rules of any other state or violations of the laws or rules of the federal government;

disciplinary actions are general, while many of them relate specifically to the license and the license certificate which the Act authorizes the Board to issue.

Note that engaging in acts identified in this Section 402(C) may be used for denial of a license or renewal application as well as to administratively prosecute persons.

- (11) Failure to pay the costs or fines assessed by the Board;
- (12) Conduct that violates the security of any licensure examination, including but not limited to obtaining access to examination questions prior to the exam, reproduction of examination questions, dissemination of examination questions whether for or not for compensation, or any other conduct that breaches the security of a licensure examination or any other examination used to qualify Applicants for licensure or renewal;

SECTION 402(C)(12). DISCIPLINARY ACTIONS, SUMMARY SUSPENSION, GROUNDS

This section provides, as a basis for administrative discipline, acts that violate the security of the licensure Examination(s) used by the Board. As more incidents of examination security breaches are uncovered, the relevance and importance of this language is emphasized. On many occasions, security breaches are uncovered after the fact and Applicants may have already been licensed. This section allows the Board to pursue administrative remedies against violators of policies which protect the integrity of the examination program.

- (13) Being subject to any disciplinary sanction from this or any other jurisdiction against any professional license, including any license related to the practice of Massage Therapy;
- (14) Engaging in unprofessional conduct as determined by the Board;
- (15) Negligence, gross negligence, incompetence or gross incompetence;
- (16) Deceptive, untrue, or fraudulent billing, charges, use of title, terms or representations in the practice of Massage Therapy;
- (17) Failure to cooperate in any investigation including the submission of documents duly requested by the Board;

- (18) Failure to comply with any Board order, including a Final Adverse Action.

SECTION 403. UNLAWFUL PRACTICE AND UNLICENSED PRACTICE

- (A) It is unlawful for any person or entity to:
- (1) Practice Massage Therapy without a valid license;
 - (2) Own, operate, or manage a business which employs, contracts with, or allows one or more unlicensed persons to offer or provide Massage Therapy;
 - (3) Represent, hold out, offer or advertise that he or she is a licensed Massage Therapist unless licensed by the Board.
- (B) The Board may:
- (1) Fine any individual whom or entity which, after a hearing, is found by the Board to have unlawfully engaged in the practice of Massage Therapy; such fine is not to exceed (\$_____) for each offense. Each such violation of this Act or Board rules pertaining to having unlawfully engaged in the practice of Massage Therapy shall also constitute a crime punishable upon Conviction as provided in the Criminal Code of this state.
 - (2) Seek a civil penalty, seek an injunction, issue a cease and desist order and/or make a criminal referral in order to restrain a violation of the Act.

SECTION 403. UNLAWFUL PRACTICE AND UNLICENSED PRACTICE

This section establishes both scope and title protections for the profession. It ensures that administrative penalties for unlicensed practice are authorized in an administrative setting.

SECTION 403(B). UNLAWFUL PRACTICE AND UNLICENSED PRACTICE

Section 403(B) ensures that the Board has administrative jurisdiction over all persons who are accused of violating the Act. It also establishes that the Board has the authority to fine persons for the unlicensed practice of the profession. This section is essential to ensuring the board has authority over all persons, not just Applicants and Licensees.

SECTION 404. UNLAWFUL ADVERTISING

- (A) It is unlawful for any person or business entity to:
- (1) Advertise or use the words *Massage Therapy*, *massage*, *massage-bodywork therapy*, *bodywork therapy*, or *massage-bodywork therapist*, *massage therapist*, *bodywork therapist*, or the letters "LMT" or any other words, abbreviations or insignia indicating or implying that Massage Therapy is provided, or supplied, unless such persons providing the services are licensed pursuant to this Act.
 - (2) Advertise a service, the provision of which would constitute a violation of this Act or rules established by the Board.

SECTION 405. CRIMINAL PENALTIES

Nothing herein shall be construed to prohibit criminal prosecutions under the applicable criminal code for violations of this Act.

SECTION 404. UNLAWFUL ADVERTISING

This section ensures that persons cannot hold themselves out as Massage Therapists unless duly licensed. It also requires licensure for persons using the acronyms and derivatives of the various titles used in the profession.

ARTICLE V. OTHER

SECTION 501. SEVERABILITY

If any provision of this Act is declared unconstitutional or illegal, or the applicability of this Act to any person or circumstance is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of this Act and the application of this Act to other persons or circumstances shall not be affected and shall remain in full force and effect without the invalid provision or application.

SECTION 502. EFFECTIVE DATE

This Act shall be in full force and effect on _____(insert date).

SECTION 501. SEVERABILITY

This section establishes that if any part of this Act is unconstitutional or illegal, the Act will remain in full force without the invalid provisions.

SECTION 502. EFFECTIVE DATE

The enactment date and the date that the law goes into effect may be two different dates. For example, the bill will be enacted one year but the next year it will go into effect because funding has to be appropriated. Because this is a Model Practice Act, no date is specified.



NOTES





FSMTB

Federation of State Massage Therapy Boards
10801 Mastin Boulevard, Suite 420
Overland Park, KS 66210
www.fsmtb.org

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SB2294

#6

SB 2294 Testimony

Mar 17, 2015

Jon Simmons

952-210-5689

Jon.simmons@live.com

45-25-05

Section 1

Subsection A

There are many variations to board composition both in massage boards across the country and licensing boards in general. The current operating structure was assigned by the legislature more than 12 years ago. We have continued to push forward and made significant strides through the current board structure. The term limits we implemented have resulted in an entirely new board since I first began. Those limits change the composition from a personnel standpoint over time. There have been issues that have resulted in much debate and much compromise. I am proud of the work the board has done and on the whole we have been able to achieve a good result for the protection of the consumer. We have not always had unanimous votes or agreed on every issue but we are functioning as a voting body should. My simple questions for consideration of changing board composition to 4 massage therapists and one consumer member:

Would changing board composition necessarily result in improved consumer protection?

Would changing the board composition be guaranteed to fix or improve the concerns you have heard?

Would changing the board composition increase or decrease opportunity for conflicts of interest?

Does changing add to the diversity of perspective or homogenize the board?

Could there be unintended consequences from the change?

Section 2

Subsection B 1

Limiting consumer members from having been a massage therapist is a good idea in my opinion. Having an alternate perspective is important. However in this case a consumer member is not a massage therapist by definition. The law as currently written allows the governor's office to make use discretion as to previous service in the field.

Does the governor's office have the tools to make these decision or does it need further direction?

Subsection B 4

Previous members of other licensing boards or commissions may have a wealth of knowledge and be an asset to our board in the future. They bring experience from working with others through both board operations and the legislative process.

Would limiting people who have served other boards and commissions well protect the consumer in any

additional way? Would it improve board function or efficiency?

Subsection B 3

Individuals who currently own or are affiliated with a massage school must currently disclose this at the time of their application.

Does the governor's office need additional guidance to their appointment process through a change in state law?

Subsection B 5

We all want to eliminate conflicts of interests. In the selection process applicants are required to disclose fiduciary obligations or potential conflicts. As it stands, if the disclosed conflicts are a concern to the appointment process then the applicant is not selected.

Would this subsection help the governor's office appointment process in any additional meaningful way?

Subsection B 6

A financial interest in rendering health services could conceivably be a conflict. As previously mentioned the governor's office already screens for potential conflicts. However it is assumed that members are able to separate their personal financial interests. If it were not the case there would be no massage therapists on the board who would otherwise have a 100% financial interest conflict. We are clearly all entrusted to not allow financial conflicts of interest to interfere with the work we have committed to do.

Would limiting a doctor, dentist, nurse, group home operator, paramedic, or other health service provider help protect the consumer in any additional meaningful way?

I ask that you reject SB2294. Some provisions were removed by a previous committees. The remaining provisions aim to change a board structure that has worked for many years. The governor's office has the tools and discretion it needs should an issue arise.

In addition I ask that you vote in favor of SB2085 in its entirety. You have heard and been provided a detailed timeline of the thoughtful approach the board has taken when developing SB2085. The hard work, due diligence, and open format have resulted in a strong bill with broad support that will be of benefit to the consumer and bolster the industry.

March 17, 2015

#7

Dr. Todd Salwey

From:

Sent:

To:

SB-2294

Dr. Todd Salwey <drtodd@fargospinedoc.com>

Monday, March 16, 2015 6:18 PM

'gkeiser@nd.gov'; 'gsukut@nd.gov'; 'bamerman@nd.gov'; 'tbeadle@nd.gov';
'rcbecker@nd.gov'; 'jboschee@nd.gov'; 'bdevlin@nd.gov'; 'rfrantsvog@nd.gov';
'bwhanson@nd.gov'; 'jkasper@nd.gov'; 'vrlaning@nd.gov'; 'mlefor@nd.gov';
'sclouser@nd.gov'; 'menelson@nd.gov'; 'druby@nd.gov'

Subject:

SB 2085 and 2294

Dear Industry, Business and Labor Committee

My name is Dr. Todd Salwey and I serve on the North Dakota State Board of Massage. I have been serving for about 2 ½ years now. I am currently the secretary treasurer. I am writing in support of Senate Bill 2085. This bill was written with input from the Massage Board, massage therapists, and the local chapter of the American Massage Therapy Association. We believe changes this bill brings about will help in moving the massage profession forward and to further protect consumers. I urge you to consider passing this bill as it stands.

There is a second bill that has come forth, Senate Bill 2294. This bill was heard on the Senate side by the Government and Veterans Affairs Committee. I have the following issues with this bill.

1. Bill 2294 requires the Massage Board members be changed from 3 LMTs and 2 consumer members to 4 LMTs (Licensed Massage Therapists) and 1 consumer member. I feel consumer members give a voice to the public and also give a different point of view to situations that arise at the Board. This bill would restrict any future Board member from working in or being associated with any health care field or profession or having any association with any massage school. I feel that a medical doctor, nurse, or chiropractor would have valuable insight and be able to make an informed decision as a consumer member on this Board. This bill would eliminate their expertise in the health field and eliminate consumer protection. This bill would also eliminate instructors or teacher that are teaching future massage therapists. Wouldn't you want someone teaching students exactly what the board and state want them to know? Again the purpose of this Board is to protect the public. By eliminating people from these professions, does that further protect the public? I think it lessens the protection. The current make-up of the Board gives LMTs a majority in any voting situation. I do feel that a consumer would have enough knowledge of massage or the massage industry to make an informed decision any regarding issues that may arise. The legislature required that 2 consumer members be added to the Board several years ago. I feel it would be a mistake to change the composition of the Board to appease two of the current LMT board members because they are not getting their way.

2. The issue of inspecting every massage therapist and their facility every year is a monumental task both financially and logistically. Currently over 700 LMTs are practicing in North Dakota. The Board does not have the manpower to inspect them all or the financial capability to hire staff to inspect them all. I would recommend a yearly self-inspection with attestation when licenses are renewed and continuing with the random inspections the Board currently performs. This would let the LMTs know what is expected of them, and they would be attesting that they acknowledge and are compliant. The random inspections would let them know we are still watching. This would also allow the Board to inspect for any other problem or reason that may arise.

Let me ask you this. What is the reason for changing the composition of the Board? Is it because the consumer members are unable to make informed decisions that only a massage therapist can make? Or is it because two of the massage therapists currently serving on the Board are not getting their way? The main reason the Board of Massage exists is to protect the public. By changing the composition of the Board to four massage therapists and one consumer member, does that protect the public more or less? Does changing the Board composition and eliminating a consumer member give the public more voice or less voice? Bill 2294 would eliminate a consumer member and add another massage therapist, does this help diversify the Board and give different perspectives? There will always be disagreements with any Board, but is that any reason to change law? The law currently has time limits on board terms. That was changed last legislative session, and I think that is a good thing as well.

Senate Bill 2294 was introduced by two current Massage Board members and one former Board member. All of these issues were brought to the Board from a committee of Board members, LMTs, public and the state chapter of the American Massage Therapy Association. Senate Bill 2085 was voted on and passed by the Massage Board to move forward to legislature. When the two current Board members and a former Board member did not get the results they wanted in the bill, they drafted Bill 2294. It reminds me of asking your mother for something, not getting it, then asking your father, and hoping for a different result.

I would hope that you look at this situation and find that Bill 2085 should be passed as it did in the Senate and you choose to kill Bill 2294 for the reasons I stated above. Thank you for your time and please feel free to email or call with any questions you may have. You can reach me at 701-491-0177. Thank you for your time, and consideration.

Sincerely

Dr. Todd Salwey

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/massagetherapists	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.msmt.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, AMMANANCE 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

SB 2294

Mar 17, 2015

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pg 1

Nebras	(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://llronline.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

SB2085 AND SB2294
COMMON AMENDMENTS - AMEND SB2085

March 24, 2015

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"	
NON-VOTING EX-OFFICIO MEMBER	Member of Massage Therapy Education Community	