

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**

**5300 Board of Massage and Bodywork**

Statutory Authority: 24 Delaware Code, Section 5306(a)(10) (24 **Del.C.** §5306(a)(1))  
24 **DE Admin. Code** 5300

**FINAL**

**ORDER**

The Delaware Board of Massage and Bodywork, in accordance with 29 **Del.C.** Chapter 101 and 24 **Del.C.** §5306(a)(1), proposed amendments to its regulation sections 1.0, 2.0, and 7.0. Specifically, the proposed additions to section 1.0 Definitions divide allowable continuing education into two categories: Core and Elective. The changes to section 2.0 Filing of Application for Licensure as Massage/Bodywork Therapist clarify the language of that section but do not alter the substance of the provision.

The changes to 7.0 Continuing Education provide for online licensure renewal, allow half of continuing education requirements to be fulfilled online, clarify the categorical restrictions on continuing education, and provide for the automatic approval of the content of continuing education courses approved by either the National Certification Board for Therapeutic Massage and Bodywork ("NCBTMB") or the American Massage Therapy Association ("AMTA").

In compliance with 29 **Del.C.** §10115, notice of the public hearing and a copy of the proposed regulatory changes was published in the *Delaware Register of Regulations*, Volume 11, Issue 11, at page 1453 on May 1, 2008.

**Summary of the Evidence and Information Submitted**

Two written comments were received prior to the hearing. The first was submitted by the Associated Bodywork & Massage Professionals (ABMP) and marked as "Exhibit C." ABMP wrote to ask that continuing education (CE) courses approved by it be automatically accepted by the Board. Although not related to the currently proposed changes, ABMP encouraged the Board to accept the Massage & Bodywork Licensing Examination (MBLEx) and to cut the required CE hours in half. The second comment was submitted by Linda S. Lowry and marked as "Exhibit D." Ms. Lowry expressed her opposition to the new "Core" and "Elective" CE categories and asked that ABMP-approved course be automatically approved by the Board. Although not related to the currently proposed changes, Ms. Lowry opined that Massage Therapists and Technicians should be required to complete the same number of CE hours, she suggested deleting section 4.2.1, proposed accepting additional exams for licensure, and she suggested a change to section 8.0.

No verbal comments were received at the hearing.

**Findings of Fact**

The Board finds that adoption of the proposed amendments is necessary to provide for online renewals, clarify CE requirements, and streamline the audit process.

**Decision and Effective Date**

The Board hereby adopts the proposed amendment to the regulations to be effective 10 days following final publication of this order in the Register of Regulations.

**Text and Citation**

The text of the final regulations is attached hereto as "Exhibit A" and is formatted to show the amendment. A non-marked up version of the regulations as amended is attached hereto as "Exhibit B."

**IT IS SO ORDERED** this 19th day of June 2008, by the Delaware Board of Massage and Bodywork.

David Patterson, President	Clayton Yocum
Diane Langston	Gordon Gelley
Cindy Horsman	Barbara Uniatowski

### **5300 Board of Massage and Bodywork**

#### **1.0 Definitions and Clarifications**

- 1.1 The term "500 hours of supervised in-class study" as referenced in 24 **Del.C.** §5308(a)(1) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a curriculum that is substantially the same as referenced in 24 **Del.C.** §5308(a)(1) and which includes hands-on technique and contraindications as they relate to massage and bodywork. More than one school or approved program of massage or bodywork therapy may be attended in order to accumulate the total 500 hour requirement.
- 1.2 The term a "300 - hour course of supervised in-class study of massage" as referenced in 24 **Del.C.** §5309(a)(1) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a 300 hour course which includes no less than sixty hours of anatomy and physiology, one hundred-forty hours of theory and technique and one hundred hours of elective courses in the field of massage therapy as referenced in 24 **Del.C.** §5309(a)(1).
  - 1.2.1 The 300 hour course must be a unified introductory training program in massage and bodywork, including training in the subjects set forth in Regulation 1.4. The entire 300 hour course must be taken at one school or approved program. The Board may, upon request, waive the "single school" requirement for good cause or hardship, such as the closure of a school.
- 1.3 The term a "200 hour course of supervised in-class study of massage" as referenced in 24 **Del.C.** §5309(b) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a 200 hour course which includes no less than fifty hours of anatomy and physiology, one hundred-ten hours of theory and technique, twenty- five hours of ethics, law, and contraindications and fifteen hours of elective courses in the field of massage therapy as referenced in 24 **Del.C.** §5309(b).
- 1.4 The Board has jurisdiction over the "practice of massage and bodywork" as defined in 24 **Del.C.** §5302(6).
  - 1.4.1 "**Massage**" includes, the following practices or modalities:
    - Chair Massage
    - Deep Tissue Massage Therapy
    - Manual Lymphatic Drainage
    - Massage Therapy
    - Myofascial Release Therapy
    - Neuromuscular Therapy
    - Swedish Massage Therapy
    - Trager
    - Visceral Manipulation
  - 1.4.2 "**Bodywork**" includes the following practices or modalities:

Acupressure  
Craniosacral therapy  
Clinical aroma therapy  
Hellerwork  
Process Acupressure  
Reflexology  
Rolfing  
Shiatsu

## 1.5 Continuing Education categories

1.5.1 **“Core course”** means a continuing education course with a subject matter within the “practice of massage and bodywork,” which contributes to the professional competency of the massage/bodywork therapist or massage technician. Core courses must be designed to maintain, improve, or expand skills and knowledge or to develop new and relevant skills and knowledge.

1.5.2 **“Elective course”** means a continuing education course with a subject matter that is outside the “practice of massage and bodywork,” which does not directly contribute to the professional competency of the massage/bodywork therapist or massage technician. Elective courses must have one of the following subject matters: modalities outside the “practice of massage and bodywork,” personal growth and self-improvement, business management, anatomy, or physiology.

1.6 **“CPR certification”** means a valid **Heartsaver®** CPR Certification or its equivalent issued by the American Heart Association, a valid Adult CPR Certification or its equivalent issued by the American Red Cross, or a valid Standard CPR Certification or its equivalent issued by the National Safety Council.

**3 DE Reg. 1516 (5/1/00)**

**4 DE Reg. 1245 (2/1/01)**

**8 DE Reg. 692 (11/1/04)**

**10 DE Reg. 575 (09/01/06)**

**11 DE Reg. 692 (11/01/07)**

## 2.0 **Filing of Application for Licensure as Massage/Bodywork Therapist**

2.1 A person seeking licensure as a massage/bodywork therapist must submit a completed application on a form prescribed by the board to the board office at the Division of Professional Regulation (“Division”), Dover, Delaware. Each application must be accompanied by (1) proof of current CPR certification and (2) payment of the application fee established by the Division. ~~of Professional Regulation~~

2.2 In addition to the application and materials described in ~~R~~regulation 2.1, an applicant for licensure as a massage/bodywork therapist shall have (1) each school or approved program of massage or bodywork where the applicant completed the hours of study required by 24 **Del.C.** §5308(a)(1) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed; and (2) Assessment Systems, Incorporated, or its predecessor, submit to the Board verification of the applicant's score on the written examination described in ~~R~~regulation 3.0.

2.3 The ~~b~~Board shall not consider an application for licensure as a massage/bodywork therapist until all items specified in ~~R~~regulations 2.1 and 2.2 are submitted to the ~~b~~Board's office.

2.3.1 The ~~b~~Board may, in its discretion, approve applications contingent on receipt of necessary documentation. If the required documentation is not received within 120 days from the date when the application is first reviewed by the ~~b~~Board, the ~~b~~Board ~~will~~ shall propose to deny the application.

2.3.2 If an application is complete in terms of required documents, but the candidate has not responded to a ~~the~~Board request for further information, explanation or clarification within 120 days of the ~~the~~Board's request, the ~~the~~Board will shall vote on the application as ~~it stands is~~.

2.4 ~~Renewal. Applicants for renewal of a massage/bodywork therapist license shall submit a completed renewal form, renewal fee, proof of continuing education pursuant to Regulation 7.0 and proof of a current CPR certification. Applicants for renewal of a massage/bodywork therapist license must maintain a current CPR certification, pay the required renewal fee, and submit a completed renewal application that indicates whether the applicant has met the CE requirements pursuant to regulation 7.0. Licensees holders shall be required to maintain current CPR certification throughout the biennial licensure period.~~

**4 DE Reg. 1245 (2/1/01)**

**8 DE Reg. 692 (11/1/04)**

**10 DE Reg. 575 (09/01/06)**

### **3.0 Examination**

The Board designates the National Certification Examination administered by the National Certification Board for Therapeutic Massage and Bodywork ("NCBTMB") as the written examination to be taken by all persons applying for licensure as a massage/bodywork therapist. The Board will accept as a passing score on the exam the passing score established by the NCBTMB.

### **4.0 Application for Certification as Massage Technician**

4.1 A person seeking certification as a massage technician must submit a completed application on a form prescribed by the board to the board office at the Division of Professional Regulation, Dover, Delaware. Each application must be accompanied by (1) proof of current certification and (2) payment of the application fee established by the Division of Professional Regulation.

4.2 In addition to the application and materials described in Regulation 4.1, an applicant for certification as a massage technician shall have the school or approved program of massage or bodywork therapy where the applicant completed the hours or study required by 24 **Del.C.** §5309(a)(1) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed.

4.2.1 An applicant for a temporary massage technician certification, in addition to the application and materials described in Regulation 4.1, shall have the school or approved program of massage or bodywork therapy where the applicant completed the hours or study required by 24 **Del.C.** §5309(b) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed.

4.3 The board shall not consider an application for certification as a massage technician until all items specified in Regulation 4.1 and 4.2 are submitted to the board's office.

4.3.1 The board may, in its discretion, approve applications contingent on receipt of necessary documentation. If the required documentation is not received within 120 days from the date when the application is first reviewed by the board, the board will propose to deny the application.

4.3.2 If an application is complete in terms of required documents, but the candidate has not responded to a board request for further information, explanation or clarification within 120 days of the board's request, the board will vote on the application as it stands.

4.4 ~~Renewal. Applicants for renewal of a massage technician certificate shall submit a completed renewal form, renewal fee, proof of continuing education pursuant to Rule 7.0 and proof of current CPR certification. Certificate holders shall be required to maintain current CPR certification throughout the biennial licensure period. Temporary massage technician certificates are valid for no more than one (1) year and may not be renewed or reissued pursuant to the provision of 24 **Del.C.** §5309(b).~~

**3 DE Reg. 1516 (5/1/00)**

**4 DE Reg. 1245 (2/1/01)**

**8 DE Reg. 692 (11/1/04)**

## 10 DE Reg. 575 (09/01/06)

### 5.0 Expired License or Certificate

An expired license as a massage/bodywork therapist or expired certificate as a massage technician, excluding temporary massage technician certificates, may be reinstated within one (1) year after expiration upon application and payment of the renewal fee plus a late fee as set by the Division of Professional Regulation, submission of documentation demonstrating compliance with the continuing education requirements of Regulation 7.0 and proof of current CPR certification.

**5 DE Reg. 827 (10/01/01)**

**8 DE Reg. 692 (11/1/04)**

**10 DE Reg. 575 (09/01/06)**

### 6.0 Inactive Status

- 6.1 A licensee asking to have his or her license placed on inactive status must notify the board of his/her intention to do so in writing prior to the expiration of his/her current license. Holders of temporary massage technician certificates are not eligible for inactive status.
- 6.2 A licensee on inactive status seeking to re-enter practice must notify the board in writing of his/her intention, pay the appropriate fee, and provide the board with documentation demonstrating compliance with the continuing education hours required by Regulation 7.0, and proof of current CPR certification.

**8 DE Reg. 692 (11/1/04)**

**10 DE Reg. 575 (09/01/06)**

### 7.0 Continuing Education (CE)

- 7.1 ~~Renewal Requirements. Hours required. For license or certification periods beginning September 1, 2004 and thereafter, each m~~Massage/bodywork therapists shall complete ~~twenty-four (24)~~ hours of ~~Board approved continuing education CE~~ during each biennial licensing period, except as otherwise provided in these Rules and Regulations. Each ~~m~~Massage technician shall complete ~~twelve (12)~~ hours of ~~acceptable continuing education approved CE~~ during each biennial licensing period, except as otherwise provided in these Rules and Regulations. Completion of the required ~~continuing education CE hours~~ is a ~~condition of prerequisite for~~ renewing a license or certificate. Hours earned in a biennial licensing period in excess of those required for renewal may not be credited towards the hours required for renewal in any other licensing period.
  - 7.1.1 Calculation of Hours. For academic course work, correspondence courses, or seminar/workshop instruction, one ~~(1)~~ hour of ~~acceptable continuing education CE~~ shall mean 50 minutes of actual instruction. One ~~(1)~~ academic semester hour shall be equivalent to ~~fifteen (15) continuing education CE~~ hours; one ~~(1)~~ academic quarter hour shall be equivalent to ~~ten (10) continuing education CE~~ hours.
  - 7.1.2 If, during a licensing period, an individual certified by the Board as a massage technician is issued a license as a massage/bodywork and ~~bodywork~~ therapist, the ~~continuing education CE~~ requirement for that licensing period is as follows:
    - 7.1.2.1 If the license is issued more than ~~twelve (12)~~ months prior to the next renewal date, the licensee shall complete ~~twenty-four (24)~~ hours of acceptable ~~continuing education CE~~ during the licensing period.
    - 7.1.2.2 If the license is issued less than ~~twelve (12)~~ months prior to the next renewal date, the licensee shall complete ~~twelve (12)~~ hours of acceptable ~~continuing education CE~~ during the licensing period.
- 7.2 ~~Proration.~~ Candidates for renewal who were first licensed or certified ~~twelve (12)~~ months or less before the date of renewal are exempt from the ~~continuing education CE~~ requirement for the period in which they were first licensed or certified.

7.3 Content. Therapists and technicians may:

7.3.1 ~~Except as provided in Rule 7.3.2, continuing education hours must contribute to the professional competency of the massage/bodywork therapist or massage technician within modalities constituting the practice of massage and bodywork. Continuing education hours must maintain, improve or expand skills and knowledge obtained prior to licensure or certification, or develop new and relevant skills and knowledge. For each biennial licensing period, massage therapists must complete at least eighteen of the required twenty four hours of continuing education hours in supervised in-class hands-on study of the "practice of massage and bodywork" as defined in Rule 1.4. For each biennial licensing period, massage technicians must complete at least nine of the required twelve hours of continuing education hours in supervised in-class hands-on study of the "practice of massage and bodywork" as defined in Rule 1.4. Fulfill all of their CE requirements with approved Core courses.~~

7.3.2 ~~For each biennial licensing period, massage therapists may complete (but are not required to complete) up to six hours of the required twenty four hours of continuing education hours in any combination of the areas and methods listed in Rules 7.3.2.1 through 7.3.2.5. In each biennial licensing period, massage technicians may complete (but are not required to complete) up to three hours of the required twelve hours of continuing education hours in any combination of the areas and methods listed in Rules 7.3.2.1 through 7.3.2.6. Fulfill 25% of their CE requirements with approved Elective courses.~~

7.3.2.1 ~~Courses in modalities such as are listed in Rule 1.5, which are modalities other than in the practice of massage and bodywork~~

7.3.2.2 ~~Personal growth and self-improvement courses~~

7.3.2.3 ~~Business Management Courses~~

7.3.2.4 ~~Courses taught by correspondence or mail~~

7.3.2.5 ~~Courses taught by video, teleconferencing, video conferencing or computer.~~

7.3.2.6 ~~Courses in anatomy or physiology~~

7.3.3 ~~Fulfill 50% of their CE requirements with Board-approved courses conducted online, by video replay, video- or tele-conference, correspondence, or mail. This allowance is subject to the limitation of Elective courses in regulation 7.3.2.~~

7.4 Board approval.

7.4.1 ~~NCBTMB- and AMTA-approved CE courses are automatically approved for content. This provision is subject to the requirements and limitations under regulation 7.3.~~

7.4.2 ~~All continuing education To obtain credit for CE courses not approved by NCBTMB or AMTA, those courses must be pre-approved by the Board before submission of a renewal application. Continuing education programs CE course participants or providers must may apply for pre-approval of continuing education hours courses by submitting a written request to the Board which that must includes the a program agenda, a syllabus and indicating the time spent on each topic, the names and resumes of the presenters, and the number of CE hours for which approval is and category requested. The Board reserves the right to approve less than the number of hours requested or to approve a course in a different category than requested.~~

7.4.23 ~~Self-directed activity. The Board may, upon request, review and approve credit for self-directed activities, including, but not limited to; teaching, research, and preparation and/or presentation of professional papers and articles. A licensee must obtain may apply for pre-approval of the Board prior to undertaking the self-directed activity in order to assure continuing education credit for the activity. Any self directed activity submitted for approval must include activities by submitting a written request for pre-approval that must include an proposal outlining of the scope of the activity, the number of continuing education CE hours and category requested, the anticipated completion date(s), the role of the licensee in the case of multiple participants (e.g. research), and whether any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee.~~

~~7.4.34~~ Course preparation and instruction. The Board may ~~award~~ approve up to six additional continuing education CE credits, on an hour for hour basis, to continuing education instructors for their first-time initial preparation and presentation of an approved continuing education CE course for other practitioners, to a maximum of 6 additional hours. (e.g. an instructor preparing and presenting an 8 eight hour course for the first time may receive up to 6 six additional credit hours, for preparation of the course). This provision remains subject to the limitations of Rule regulation 7.3.2.

~~7.4.5~~ Board approval of a licensee's CE hours in a modality is not a Board endorsement of the licensee's competence to practice that modality.

#### ~~7.5~~ Reporting Verification.

~~7.5.1~~ For license or certification periods beginning September 1, 2004 and thereafter, each candidate for renewal shall submit a summary of their continuing education hours, along with any supporting documentation requested by the Board, to the Board on or before May 31 of the year the license or certification expires. No license or certification shall be renewed until the Board has approved the required continuing education hours or granted an extension of time for reasons of hardship. The Board's approval of a candidate's continuing education hours in a particular modality does not constitute approval of the candidate's competence in, or practice of, that modality. Verification of CE hours shall be by attestation. Attestation shall be completed electronically if the renewal is accomplished online. Alternatively, the attestation of completion may be submitted by paper renewal forms. Requests for paper renewal forms must be directed to the Division.

~~7.5.2~~ If a continuing education program has already been approved by the Board, the candidate for renewal must demonstrate, at the Board's request, the actual completion of the continuing education hours by giving the Board a letter, certificate or other acceptable proof of attendance provided by the program sponsor. Post-Renewal Audit. The Board will conduct random audits of renewal applications to ensure the veracity of attestations and compliance with the renewal requirements. Licensees selected for the random audit shall submit CE course attendance verification in the form of a certificate of attendance or completion that must be signed by the course presenter or by a designated official of the sponsoring organization. Licensees shall retain their CE course attendance documentation for each licensure period and for at least one year after renewal. Licensees found to be deficient or found to have falsely attested may be subject to disciplinary proceedings and may have their license suspended or revoked. Licensees renewing during the late renewal period pursuant to regulation 5.0 shall be audited.

~~7.6~~ Hardship. A candidate for renewal may be granted an extension of time in which to complete continuing education CE hours upon a showing of unusual hardship. "Hardship" may include, but is not limited to, disability, illness, extended absence from the jurisdiction, and exceptional family responsibilities. Requests for hardship ~~consideration~~ extensions must be submitted to the Board in writing prior to the end of the licensing or certification period for which it the request is being made. If ~~the Board does not have sufficient time to consider and approve a request for hardship extension prior to the expiration of the license, the license will lapse upon the expiration date and be reinstated upon completion of continuing education pursuant to the hardship exception.~~ The licensee may not practice until reinstatement of the license.

~~7.7~~ Continuing Education Requirements for Late Renewal. Reinstatement of a Lapsed License Unless extended by the Board for hardship as defined in Rule regulation 7.6, and subject to the ~~one (1)~~ one-year limitation set forth in Rule regulation 5.0, a massage/bodywork therapists and massage technicians applying for reinstatement of a lapsed license late renewal must provide to the Board adequate proof of the satisfactory completion of twenty four (24) hours of Board approved continuing education within the required CE for the immediately preceding two (2)-year licensure period prior to the date of application for reinstatement. A massage technician applying for reinstatement of a lapsed license must provide to the Board adequate proof of the satisfactory completion of twelve (12) hours of Board approved continuing education within the immediately preceding two (2)-year period prior to the date of application for reinstatement. Continuing education hours required for reinstatement of a lapsed license may not be credited towards the hours required for renewal in any other licensing period.

7.7.1 A massage therapist who has let his/her license lapse for more than one (1) year and is ineligible for reinstatement and therefore required to submit a new application shall not be permitted to circumvent continuing education requirements. The massage therapist must provide to the Board adequate proof of the satisfactory completion of twenty four (24) hours of Board approved continuing education within the immediately preceding two (2) year period prior to the date of the new application. A massage technician who has let his/her license lapse for more than one (1) year and is ineligible for reinstatement and therefore required to submit a new application shall not be permitted to circumvent continuing education requirements. The massage technician must provide to the Board adequate proof of the satisfactory completion of twelve (12) hours of Board approved continuing education within the immediately preceding two (2) year period prior to the date of the new application. Continuing education hours required to be filed with a new application may not be credited towards the hours required for renewal in any other licensing period.

7.8 ~~Continuing Education Requirements for Licensees Returning from to Ina~~Active Status. Unless extended by the Board for hardship as defined in Rule regulation 7.6, a massage/bodywork therapists and massage technicians returning from inactive status must provide notice to the Board as set forth in Rule regulation 6.2 and must provide ~~to the Board~~ adequate proof of the satisfactory completion of ~~twenty four (24)~~ hours of Board approved ~~continuing education~~ CE within the immediately preceding ~~two (2)~~ two-year period prior to the date of the notice to return to active. A massage technician returning from inactive status must provide notice to the Board as set forth in Rule regulation 6.2 and must provide ~~to the Board~~ adequate proof of the satisfactory completion of ~~twelve (12)~~ hours of Board approved ~~continuing education~~ CE within the immediately preceding two (2) year period prior to the date of the notice to return to active status. ~~Continuing education~~ CE hours required to return to active status may not be credited towards the hours required for renewal in any other licensing period.

**3 DE Reg. 1516 (5/1/00)**

**4 DE Reg. 1245 (2/1/01)**

**4 DE Reg. 1944 (6/1/01)**

**5 DE Reg. 1409 (1/1/02)**

**7 DE Reg. 40 (7/1/03)**

**8 DE Reg. 692 (11/1/04)**

## **8.0 Scope of Practice**

Licensed massage/bodywork therapist and certified massage technicians shall perform only the massage and bodywork activities and techniques for which they have been trained as stated in their certificates, diplomas or transcripts from the school or program of massage therapy where trained.

**8 DE Reg. 692 (11/1/04)**

## **9.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals**

9.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

9.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

9.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

9.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on



practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

- 9.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 9.8 of this section.
- 9.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
  - 9.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
  - 9.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.
  - 9.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
  - 9.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
  - 9.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
  - 9.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 9.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 9.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any

- time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 9.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 9.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 9.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.
- 9.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

**8 DE Reg. 692 (11/1/04)**

**10.0 Crimes Substantially Related to the Practice of Massage and Bodywork:**

- 10.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of massage and bodywork in the State of Delaware without regard to the place of conviction:
- 10.1.1 Aggravated menacing. 11 **Del.C.** §602(b)
  - 10.1.2 Reckless endangering in the first degree. 11 **Del.C.** §604
  - 10.1.3 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
  - 10.1.4 Assault in the second degree. 11 **Del.C.** §612
  - 10.1.5 Assault in the first degree. 11 **Del.C.** §613.
  - 10.1.6 Abuse of a sports official; felony. 11 **Del.C.** §614.
  - 10.1.7 Terroristic threatening; felony. 11 **Del.C.** §621.
  - 10.1.8 Unlawfully administering drugs. 11 **Del.C.** §625.
  - 10.1.9 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
  - 10.1.10 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
  - 10.1.11 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
  - 10.1.12 Murder in the second degree. 11 **Del.C.** §635.
  - 10.1.13 Murder in the first degree. 11 **Del.C.** §636.
  - 10.1.14 Incest. 11 **Del.C.** §766.
  - 10.1.15 Unlawful sexual contact in the third degree. 11 **Del.C.** §767.
  - 10.1.16 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
  - 10.1.17 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
  - 10.1.18 Rape in the fourth degree. 11 **Del.C.** §770.
  - 10.1.19 Rape in the third degree. 11 **Del.C.** §771.
  - 10.1.20 Rape in the second degree. 11 **Del.C.** §772.
  - 10.1.21 Rape in the first degree. 11 **Del.C.** §773.
  - 10.1.22 Sexual extortion. 11 **Del.C.** §776.
  - 10.1.23 Bestiality. 11 **Del.C.** §777.
  - 10.1.24 Continuous sexual abuse of a child. 11 **Del.C.** §778.
  - 10.1.25 Dangerous crime against a child. 11 **Del.C.** §779.

- 10.1.26 Female genital mutilation. 11 **Del.C.** §780.
- 10.1.27 Kidnapping in the second degree. 11 **Del.C.** §783.
- 10.1.28 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 10.1.29 Acts constituting coercion. 11 **Del.C.** §791.
- 10.1.30 Arson in the first degree. 11 **Del.C.** §803.
- 10.1.31 Burglary in the third degree. 11 **Del.C.** §824.
- 10.1.32 Burglary in the second degree. 11 **Del.C.** §825.
- 10.1.33 Burglary in the first degree. 11 **Del.C.** §826.
- 10.1.34 Robbery in the second degree. 11 **Del.C.** §831.
- 10.1.35 Robbery in the first degree. 11 **Del.C.** §832.
- 10.1.36 Carjacking in the second degree. 11 **Del.C.** §835.
- 10.1.37 Carjacking in the first degree. 11 **Del.C.** §836.
- 10.1.38 Theft; felony. 11 **Del.C.** §841.
- 10.1.39 Theft; lost or mislaid property; mistaken delivery. 11 **Del.C.** §842.
- 10.1.40 Extortion. 11 **Del.C.** §846.
- 10.1.41 Receiving stolen property. 11 **Del.C.** §851.
- 10.1.42 Identity theft. 11 **Del.C.** §854.
- 10.1.43 Criminal impersonation of a police officer. 11 **Del.C.** §907B.
- 10.1.44 Securing execution of documents by deception. 11 **Del.C.** §909.
- 10.1.45 Insurance fraud. 11 **Del.C.** §913.
- 10.1.46 Health care fraud. 11 **Del.C.** §913A.
- 10.1.47 Dealing in children. 11 **Del.C.** §1100.
- 10.1.48 Sexual exploitation of a child. 11 **Del.C.** §1108.
- 10.1.49 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.
- 10.1.50 Possession of child pornography. 11 **Del.C.** §1111.
- 10.1.51 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112.
- 10.1.52 Sexual solicitation of a child. 11 **Del.C.** §1112A.
- 10.1.53 Improper influence. 11 **Del.C.** §1207.
- 10.1.54 Terroristic threatening of public officials or public servants. 11 **Del.C.** §1240.
- 10.1.55 Assault in a detention facility. 11 **Del.C.** §1254.
- 10.1.56 Promoting prison contraband; felony. 11 **Del.C.** §1256.
- 10.1.57 Tampering with a witness. 11 **Del.C.** §1263.
- 10.1.58 Hate crimes; felony. 11 **Del.C.** §1304.
- 10.1.59 Aggravated harassment. 11 **Del.C.** §1312.
- 10.1.60 Stalking. 11 **Del.C.** §1312A.
- 10.1.61 Cruelty to animals; felony. 11 **Del.C.** §1325.
- 10.1.62 Maintaining a dangerous animal; felony. 11 **Del.C.** §1327.
- 10.1.63 Abusing a corpse. 11 **Del.C.** §1332.
- 10.1.64 Violation of privacy. 11 **Del.C.** §1335.
- 10.1.65 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338.
- 10.1.66 Adulteration. 11 **Del.C.** §1339.
- 10.1.67 Lewdness. 11 **Del.C.** §1341.
- 10.1.68 Prostitution. 11 **Del.C.** §1342.
- 10.1.69 Patronizing a prostitute prohibited. 11 **Del.C.** §1343.
- 10.1.70 Promoting prostitution in the third degree. 11 **Del.C.** §1351.
- 10.1.71 Promoting prostitution in the second degree. 11 **Del.C.** §1352.

- 10.1.72 Promoting prostitution in the first degree. 11 **Del.C.** §1353.
- 10.1.73 Permitting prostitution. 11 **Del.C.** §1355.
- 10.1.74 Obscenity. 11 **Del.C.** §1361.
- 10.1.75 Possessing a destructive weapon. 11 **Del.C.** §1444.
- 10.1.76 Unlawfully dealing with a dangerous weapon; felony. 11 **Del.C.** §1445.
- 10.1.77 Possession of a deadly weapon during commission of a felony. 11 **Del.C.** §1447.
- 10.1.78 Possession of a firearm during commission of a felony. 11 **Del.C.** §1447A.
- 10.1.79 Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.
- 10.1.80 Giving a firearm to person prohibited. 11 **Del.C.** §1454.
- 10.1.81 Engaging in a firearms transaction on behalf of another. 11 **Del.C.** §1455.
- 10.1.82 Removing a firearm from the possession of a law enforcement officer. 11 **Del.C.** §1458.
- 10.1.83 Organized Crime and Racketeering. 11 **Del.C.** §1504.
- 10.1.84 Victim or Witness Intimidation. 11 **Del.C.** §§3532 and 3533.
- 10.1.85 Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 **Del.C.** §1136(a), (b) and (c).
- 10.1.86 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §4753A (a)(1)-(9).
- 10.1.87 Prohibited acts E under the Uniform Controlled Substances Act. 16 **Del.C.** §4755.
- 10.1.88 Prohibited acts under the Uniform Controlled Substances Act. 16 **Del.C.** §4756(a)(1)-(5) and (b).
- 10.1.89 Breaking and Entering, Etc. to Place or Remove Equipment 11 **Del.C.** §2410
- 10.1.90 Attempt to Intimidate. 11 **Del.C.** §3534
- 10.1.91 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 **Del.C.** §3913(a), (b) and (c).
- 10.2 Crimes substantially related to the practice of massage and bodywork shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

**8 DE Reg. 1107 (02/01/05)**

**12 DE Reg. 75 (07/01/08) (Final)**