

# South Dakota State Board of Massage Therapy

Regular Meeting

Thursday May 10, 2018, 10:30 am CDT

Room 413 State Capitol

500 East Capitol Pierre SD 57501

## Proposed Agenda

1. Call to order
2. Approval of Agenda
3. Board Duties and Responsibilities-Morgan Brekke
4. Election of Officers
5. Approval Minutes September 11, 2018 and September 25, 2018
6. Open Forum 15 minutes
7. Office Update \*
8. Stewarts School Massage Program Approval \*
9. Board Review of Applicants
  - a. Christil Rose Englert Brewer \*
  - b. Brandy Lynn Wolf \*
10. Board Review of Brenda Wheeler/mentorship follow-up release from requirement
11. Federation Business
  - a. Report from Tampa
  - b. Delegate for Salt Lake CityE
  - c. Executive Secretary Report from Kansas City Conference
  - d. Federations New Data Base MATLDA
12. 2018 Legislative Report \*
  - a. Governors Compact/Reciprocity Agreement
  - b. SB 207
13. Change of Applications for Licensure \*
  - a. Currently hold valid license change
  - b. Maiden Name
  - c. Required copy of SSC
14. Reciprocity Agreement \*
  - a. Put on SD BMT website
  - b. Require employment and license history?
15. Updating Law-Promulgating rules and closing gaps in law \*
  - a. License Fee Increase
  - b. Background Checks
16. Sale of Licensee List
17. Financial Update \*
18. Contract with Legal---Expires May 31<sup>st</sup>. (possible executive session) \*
19. Digital Communication
20. Next Meeting Date/Location

Please contact the board at 605 858 1708 or [sdbomt@gmail.com](mailto:sdbomt@gmail.com) by Tuesday May 8<sup>th</sup> at 5:00 pm CDT if you wish to join this meeting via teleconference.

\*= documents attached

**Meeting Minutes**  
**SOUTH DAKOTA BOARD OF MASSAGE THERAPY**  
**RFP Evaluation Committee**  
Kneip Building Conference Room  
700 Governor's Drive, Pierre, SD  
September 11, 2017 12:30 p.m. CDT

Vice President Zeller called the meeting to order at 12:38 p.m.

**Evaluation Committee Members Present:** Christine Ellwein, Bridget Myers, and Linda Zeller

**Others Evaluation Committee Members Present:** Dee Dee Dugstad, DOH, Terri Iverson, DOH, Susan Sporrer, DOH, and Ashley Tanner, DOH

Myers made a motion to approve the agenda. Ellwein seconded the motion. **MOTION PASSED.**

Myers made a motion to move into executive session at 12:39 p.m. for oral presentations and proposal evaluations pursuant to SDCL 1-25-2 (4). Ellwein seconded the motion. **MOTION PASSED.**

Zeller declared the RFP Evaluation Committee out of executive session at 3:41 p.m.

Ellwein made a motion to adjourn. Myers seconded the motion. **MOTION PASSED.**

The meeting adjourned at 3:41p.m.

Respectfully Submitted,

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Susan Sporrer, DOH



## South Dakota Board of Massage Therapy

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### Meeting Minutes

#### South Dakota Board of Massage Therapy

Best Western Plus Hotel & Conference Center

3200 W. Maple Street, Sioux Falls

September 25, 2017

President Kappel called the meeting to order at 10:31 am. A quorum was present.

**Members of the Board present in person:** Karen Kappel, Linda Zeller, Christine Ellwein, Meg Johnson and Bridget Myers.

**Others in attendance in person:** Jennifer Stalley, executive secretary, Grant Flynn, assistant attorney general, Kristine O'Connell, board counsel, Morgan Brekke, board counsel, Ashley Tanner, Department of Health, Heather Payden, Debbie Calmus, Marissa Hopkins, Valerie Rowen, Rhanda Heller, Gene Heller, Danielle Rivera, and Caroline Garcia.

Kappel introduced Kristine O'Connell and Morgan Brekke of Woods, Fuller, Schultz & Smith as the Board's legal counsel.

Kappel called for public comments. Valerie Rowen, Debbie Calmus, Marissa Hopkins and Rhanda Heller addressed the Board.

Zeller made a motion to approve the agenda. Ellwein seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Ellwein moved to go into executive session for consideration of contractual matters pursuant to SDCL 1-25-2 and invite Ashley Tanner and legal counsel to join the Board at 10:53 am. Zeller seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Kappel declared the Board out of executive session at 11:35 am.

Zeller moved to offer a contract to provide executive services for the Board to Promethean Tactics of Rapid City. Ellwein seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, and Johnson voted aye. Myers voted nay. **MOTION PASSED.**

Zeller moved to go into executive session for consideration of proposed contested cases pursuant to SDCL 1-25-2 and invite Jennifer Stalley and legal counsel to join the Board at 11:59 am.

Zeller seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Myers was excused from the executive session at 12:36 pm.

Kappel declared the Board out of executive session at 12:56 pm.

The Board noted the time and place for the Hearing in the Matter of the Licensure of Kaitlynn Kullnat at 1:05 pm. Ms. Kullnat appeared before the Board with her advocates Gary Cavigielli and Cathy Cavigielli. Ms. O'Connell acted as Hearing Officer for the hearing.

Zeller moved to go into executive session for consideration of proposed contested cases pursuant to SDCL 1-25-2 and invite Jennifer Stalley and legal counsel to join the Board at 2:26 pm. Ellwein seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Kappel declared the Board out of executive session at 3:03 pm.

Zeller moved to deny the license application of Kaitlynn Kullnat. Myers seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Johnson moved to accept the Settlement Agreement, approve the offered continuing education course and authorize the President to sign the order in Complaint 2016-005. Zeller seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, and Johnson voted aye. Myers abstained. **MOTION PASSED.**

Ellwein moved to dismiss Complaint 2017-001. Johnson seconded the motion. The Board voted by roll call. Kappel, Ellwein, Johnson and Myers voted aye. Zeller abstained. **MOTION PASSED.**

Zeller moved to dismiss Complaint 2017-002. Ellwein seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, and Johnson voted aye. Myers abstained. **MOTION PASSED.**

Johnson moved to dismiss Complaint 2017-003. Ellwein seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, and Johnson voted aye. Myers abstained. **MOTION PASSED.**

Johnson moved to dismiss Complaint 2017-004. Ellwein seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, and Johnson voted aye. Myers abstained. **MOTION PASSED.**

Zeller moved to approve the meeting minutes of May 24, 2017 and July 11, 2017. Ellwein seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Ellwein moved to approve the financial statements of July 1, 2017 and September 2, 2017. Johnson seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Stalley provided the Board with an office update. Stalley provided the Board with an update on renewal applications received to date. Renewal ends on September 30<sup>th</sup>. Stalley also provided the Board with the timeline to transition executive responsibilities and Board property to the new executive secretary. Stalley reviewed the list of new licensees with the Board.

Ellwein moved to defer the Federation of State Massage Therapy Boards Annual Meeting report to the next meeting. Zeller seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Stalley provided the Board with an updated copy of the administrative rules approved by the Interim Rules Review Committee. Stalley reported the Committee adopted all of the Board's recommended changes from April 10, 2017 except for changes to ARSD 20:76:02:02 (Fees) and ARSD 20:76:04 (Disciplinary Proceedings).

Johnson moved to approve the proposed updates to the Boards Policies and Positions to reflect changes adopted in the administrative rule changes. Zeller seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Johnson moved to table the Complaint Procedures Operating Policy draft. Zeller seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Zeller moved to schedule the next Board meeting on March 19, 2018. Johnson seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Zeller moved to adjourn the meeting at 3:35 pm. Ellwein seconded the motion. The Board voted by roll call. Kappel, Zeller, Ellwein, Myers and Johnson voted aye. **MOTION PASSED.**

Respectfully Submitted,

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Christine Ellwein, Secretary

## South Dakota Board of Massage Therapy

### Licenses issued 09/01/2017 through 04/30/2018

	License Number	First Name	Last Name	Original License Date	City	State	Original License
1	MT11588	Eric	Allen	10/17/2017	Mitchell	SD	Education
2	MT11602	Emmie	Arndt	1/16/2018	Watertown	SD	Reciprocity
3	MT11594	Mariah	Beck	11/21/2017	Pierre	SD	Education
4	MT11585	Kelsey	Benson	10/6/2017	St. Onge	SD	Education
5	MT11605	Suzette	Black	2/14/2018	Plankinton	SD	Education
6	MT11595	Lacy	Blair	12/11/2017	Valentine	NE	Education
7	MT11598	Risa	Bruder	12/22/2017	Crescent City	CA	Education
8	MT11606	Daniel	Carson	2/14/2018	McLaughlin	SD	Education
9	MT11571	Mary	Coffee	9/15/2017	Rapid City	SD	Education
10	MT11592	Sara	Cole	10/23/2017	Rapid City	SD	Education
11	MT11611	Kiley	Connor	2/27/2018	Worthing	SD	Education
12	MT11575	Courtney	Dickson	9/25/2017	Cavour	SD	Education
13	MT11590	Heather	Faini	10/23/2017	Yankton	SD	Education
14	MT11612	Cortney	Fegueroa	3/8/2018	Rapid City	SD	Education
15	MT11609	Rebecca	Fisher	2/26/2018	Rapid City	SD	Education
16	MT11593	Ruth	Fuehrer	11/21/2017	Mandan	ND	Education
17	MT11613	Brandi	Granger	3/15/2018	Hot Springs	SD	Education
18	MT11576	Alexander	Grimes	9/25/2017	Sioux Falls	SD	Education
19	MT11607	Tara	Gustin	2/12/2018	Rapid City	SD	Education
20	MT11617	Lisa	Halverson	3/23/2018	Winner	SD	Education
21	MT11587	Alex	Hauffe	10/18/2017	Sioux Falls	SD	Education
22	MT11615	Laura	Hill	3/20/2018	Rapid City	SD	Education
23	MT11583	Shauna	Hovey	10/2/2017	Jefferson	SD	Education
24	MT11599	Amelita	Johanneson	1/8/2018	Sioux Falls	SD	Education
25	MT11584	Jadesa	Jones	10/4/2017	Dallas	SD	Education
26	MT11621	Kathy	Kellum	4/20/2018	Garretson	SD	Reciprocity
27	MT11591	Crystal	Kleege	10/23/2017	Box Elder	SD	Education
28	MT11586	Becky	Kleinsasser	10/11/2017	Fedora	SD	Education
29	MT11618	Stella	Lawrence	3/23/2018	Chamberlain	SD	Education
30	MT11569	Noe	Leos	9/7/2017	Minneota	MN	Education
31	MT11616	Dawn	Lieneman	3/20/2018	Clarksville	TN	Education
32	MT11568	Sharilyn	Martin	9/5/2017	Hermosa	SD	Education
33	MT11582	Karen	Martocchio	10/2/2017	Black Hawk	SD	Education
34	MT11600	Savannah	McDaniel	1/8/2018	New Effington	SD	Education
35	MT10950	Marlene	McMillan	9/17/2017	Wall	SD	Education
36	MT11614	Tessa	Meath	3/16/2018	Bridgewater	SD	Education
37	MT11570	Candace	Moore	9/7/2017	Huron	SD	Education
38	MT11620	Tori	Namanny	4/5/2018	Sioux Falls	SD	Education
39	MT11619	Stephanie	Olson	3/23/2018	McLaughlin	SD	Education
40	MT11601	Lindsay	Pepper	1/8/2018	Bonesteel	SD	Education
41	MT11581	Casey	Pesch	10/2/2017	Hot Springs	SD	Education
42	MT11610	Beth	Petersen	2/26/2018	Sioux Falls	SD	Education
43	MT11577	Brittney	Priebe	9/26/2017	Pukwana	SD	Education
44	MT11597	Kelli	Quist	3/8/2018	Madison	SD	Education
45	MT11574	Pamela	Radke	9/15/2017	Chippewa Falls	WI	Education
46	MT11608	Margaret	Reginelli	2/12/2018	Rapid City	SD	Education
47	MT11604	Shelby	Rehm	2/12/2018	Spearfish	SD	Education
48	MT11578	Ana	Smiley	10/2/2017	Bassett	NE	Education
49	MT11580	Charlie	Smoke	10/2/2017	Rapid City	SD	Education
50	MT11579	Dawn	Sprunk	10/2/2017	Keystone	SD	Education
51	MT11589	Skysha	Troxel	10/23/2017	Rapid City	SD	Education
52	MT11603	Dawna	Updike	2/12/2018	Rapid City	SD	Education
53	MT11596	Dayna	Vosberg	12/12/2017	Sioux Falls	SD	Education
54	MT11572	Debra	Young	9/15/2017	Dupree	SD	Education
55	MT11622	HaiLing	Zhang	4/24/2018	Rapid City	SD	Education
56	MT11573	Yuanfang	Zhi	9/15/2017	Hampton	VA	Education

**South Dakota Board of Massage Therapy**  
**Temporary Permits issued 09/01/2017 through 04/30/2018**

<b>Permit #</b>	<b>First Name</b>	<b>Last Name</b>	<b>Issued Date</b>	<b>City</b>	<b>State</b>	<b>Second Permit</b>	
1	TEMP71	Jimmi	Ashley	1/24/2018	Rapid City	SD	4/23/2018
2	TEMP70	Nicole	Baltushis	10/26/2017	Sioux City	IA	
3	TEMP76	Brian David	Gilbert	11/28/2017	Sioux City	IA	2/27/2018
4	TEMP75	Beth	Petersen	11/21/2017	Sioux Falls	SD	
5	TEMP72	Ashlee	Rathbun	4/10/2018	Fort Pierre	SD	



Mitch Richter &lt;sdbomt@gmail.com&gt;

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**Stewart School Massage Program**

8 messages

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**Angela Taylor** <angela.taylor@stewartschool.com>  
To: "sdbomt@gmail.com" <sdbomt@gmail.com>

Thu, Mar 29, 2018 at 2:58 PM

Good Afternoon Mr Richter,

Please find attached our proposed Massage Therapy Program and our Letter of Accreditation.

Let me know if you need further information.

Sincerely,


Angela Taylor  
School Director  
Stewart School


[www.facebook.com/stewartschoolsd](http://www.facebook.com/stewartschoolsd)  
[www.stewartschool.com](http://www.stewartschool.com)

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**2 attachments**

 **Stewart School Massage Program .pdf**  
254K

 **Approval Letter Feb 2014.pdf**  
1511K



## Massage Therapy

600-hour program/20 weeks

### Objectives:

The Massage Therapy program is designed to train the student in all aspects of Swedish and Deep Tissue Massage. Students will be required to learn massage strokes, understand the various body systems and how to palpate muscles to perform the art of massage. The Massage Therapy field offers entry level employment opportunities in health care facilities, chiropractic offices, physical fitness spas and cosmetology salons, as well as providing the entrepreneur the opportunity to open and operate a massage therapy clinic. The nature of this course is to serve the health, relaxation and wellness needs of the public.

### Curriculum:

Human Anatomy and Physiology: A study of the body's eleven systems and their functions.

Pathology: A study of the diseases of the human body and their indications or contraindications to massage.

Kinesiology: The study of "human movement". A deep understanding of how muscles function in the human body is critical to the clinical reasoning and client assessment process as well as the application of massage and bodywork techniques.

Theory of Massage Therapy: This course encompasses the theoretical aspects of the massage therapy profession. It includes the history of massage, health, hygiene and sanitary practices, scope of practices issues, laws, ethics, endangerment sites, as well as the indications and contraindications of massage.

Massage/Bodywork Practice and Assessment: Practical hands-on classes of Swedish Massage, Massage manipulations and palpations, client consultation, draping, body mechanics, and contraindications of massage and detailed in classes in Term I. The second term provides a comprehensive overview of Deep Tissue Massage, Thai Massage, and a research project.

Adjunct Therapies: Includes some accessory disciplines of massage, included but not limited to; Aromatherapy, Spa Therapies, Reflexology, CPR & First Aid, Sports Massage Chair/Corporate Massage, Pregnancy Massage and Traditional Chinese Modalities.

Business: Business Management and Career Planning.

Massage Clinic/Lab: Involves Clinical Hands-on Participation and Corporate Outreach Programs.

### Program Format:

Term I 300 Clock Hours

Anatomy & Physiology, Pathology, Theory of Massage, Fundamentals of Massage, Massage Therapy II/Adjunct Therapies.

Term II 300 Clock Hours

Anatomy & Physiology, Pathology, Massage Therapy II/Adjunct Therapies, Business of Massage, Clinic/Lab Assignment.

### Hour Allocation:

160 Hours of: Body's Systems and Anatomy, Physiology and Kinesiology.

235 Hours of: Massage and Body Work Assessment, Theory and Application.

50 Hours of: Pathology

30 Hours of: Business

125 Hours of: Additional Training in related field that theoretically completes a massage program of study.

### Text Books:

Theory & Practice of Therapeutic Massage by Mark Beck 6<sup>th</sup> Edition (Accompanying Workbook and Exam Review Book)

### Program Schedule:

Massage Therapy Basic Training hours:

- Tuesday - Friday 8:00 am to 4:30 pm

Advanced Training and Clinical/Lab hours will be determined by the administrative staff and will include Saturday and one evening per week.



Accrediting Commission of Career Schools and Colleges

2101 Wilson Boulevard, Suite 302  
Arlington, Virginia 22201  
703.247.4212  
703.247.4533 fax  
[www.accsc.org](http://www.accsc.org)

March 4, 2014

**ELECTRONIC DELIVERY**  
Angela.taylor@stewartschool.com

Angela Taylor  
Director  
Stewart School  
604 North West Avenue  
Sioux Falls, South Dakota 57104

**School #M070663**

Dear Ms. Taylor:

At the February 2014 meeting, the Accrediting Commission of Career Schools and Colleges (“ACCSC” or “the Commission”) considered the Application for Renewal of Accreditation submitted by Stewart School located in Sioux Falls, South Dakota. Upon review of the December 11, 2013 Team Summary Report and the school’s response to that report, the Commission voted to grant Stewart School **Renewal of Accreditation**. The Commission’s action renews the school’s accreditation for a period of five (5) years going forward from February 2014.<sup>1</sup>

Included with this letter is an ACCSC Approved Program Enclosure as documentation of the school’s approved programs. Although ACCSC accreditation is institutional in nature, the Commission must approve all programs offered by the school. Stewart School will find the Commission’s requirements for the addition of new programs and modifications to existing programs in the *Standards of Accreditation*.

Through the renewal of its accreditation, Stewart School has continued its partnership with other educators who are committed to providing programs of quality and to conducting their affairs with integrity. The Commission is confident that Stewart School will take this responsibility seriously with consideration for the many other ACCSC-accredited institutions that have embraced accreditation as a means to enhance student learning and achieve educational goals.

In accordance with this action, the Commission will send the Certificate of Accreditation for Stewart School under separate cover. The Commission expects that the school will adhere to the *Standards of Accreditation* on an on-going basis and as revisions are approved and disseminated. Please consult regularly the ACCSC website at [www.accsc.org](http://www.accsc.org) for updates, important due dates, initiatives, and special events planned for the benefit of the Commission’s accredited institutions.

Please note that ACCSC accredited institutions are required to submit the Annual Report, sustaining fees, and audited financial statements annually. Please consult the ACCSC website at [www.accsc.org](http://www.accsc.org) for instructions for the preparation and submission of the information and fees and for all submission deadlines.

For further assistance or additional information, please contact Corey Rosso at 703.247.4507 or via e-mail at [crosso@accsc.org](mailto:crosso@accsc.org).

Sincerely,

Michale S. McComis, Ed.D.  
Executive Director

Encl.: ACCSC Approved Program Enclosure

<sup>1</sup> According to ACCSC’s records, the Commission previously granted Stewart School renewal of accreditation for five (5) years effective February 2009. Therefore, Stewart School’s accreditation is effective for a period of five (5) years going forward from February 2014.



Accrediting Commission of Career Schools and Colleges

2101 Wilson Boulevard, Suite 302  
Arlington, Virginia 22201  
703.247.4212  
703.247.4533 fax  
[www.accsc.org](http://www.accsc.org)

**ACCREDITING COMMISSION OF CAREER SCHOOLS AND COLLEGES**  
**APPROVED PROGRAM ENCLOSURE**

**STEWART SCHOOL (SCHOOL #M070663)**  
**SIOUX FALLS, SOUTH DAKOTA**

**MARCH 4, 2014**

The Commission has approved the following programs to be included within the school's scope of ACCSC accreditation:

<b>NON-DEGREE PROGRAMS*</b>	<b>CLOCK HOURS</b>	<b>AWARD</b>
Cosmetology	2100	Diploma
Esthetics	600	Diploma

\*All programs are offered in clock hours only

This information is current as of the date of this letter. Please be advised that a school may not describe in its catalog, advertise, enroll students in, or award credentials for new programs, substantive changes or degree programs prior to Commission approval (*Section IV (B)(9), Substantive Standards, Standards of Accreditation*). Schools should refer to *Section IV, Rules of Process and Procedure of the Standards of Accreditation* for a more detailed explanation of all processes and procedures required for the addition or modification of programs.

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

684Z0841

## SENATE BILL NO. 207

Introduced by: Senator Stalzer and Representative Heinemann

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the practice of  
2 massage therapy.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-35-1 be amended to read:

5 36-35-1. Terms in this chapter mean:

6 (1) "Board," the Board of Massage Therapy;

7 (2) "Clock hour" or "contact hour," a full sixty minute period with at least fifty minutes  
8 of instruction or learning activities;

9 (3) "Conviction," finding of guilt, an admission of guilt or plea of nolo contendere,  
10 regardless of adjudication;

11 (4) "Licensee," a person who meets the qualifications for licensure pursuant to this  
12 chapter and holds a valid license to practice massage therapy;

13 (3) ~~"Massage," the systematic mobilization of the soft tissues of the body through the~~  
14 ~~application of hands, feet, or devices for the purposes of therapy, relaxation, or~~  
15 ~~education through means which include:~~



1 ~~(a) Pressure, friction, stroking, rocking, kneading, percussion, compression, or~~  
2 ~~stretching;~~

3 ~~(b) External application of water, heat, cold, lubricants, or other topical agents; or~~

4 ~~(c) The use of devices that mimic or enhance the actions of human hands or feet;~~  
5 ~~and~~

6 ~~(4)(5)~~ "Practice of massage therapy," the performance of massage for a fee or other  
7 compensation or holding oneself out to the public as performing massage.

8 Section 2. That chapter 36-35 be amended by adding a NEW SECTION to read:

9 For the purposes of this chapter the term, massage, means the manual application of a  
10 system of structured touch to the soft tissues of the human body including:

11 (1) Assessment, evaluation, or treatment;

12 (2) Pressure, friction, stroking, rocking, gliding, kneading, percussion, compression,  
13 stretching, or vibration;

14 (3) Active or passive stretching of the body within the normal anatomical range of  
15 movement;

16 (4) Use of manual methods or mechanical or electrical devices or tools that mimic or  
17 enhance the action of human hands or feet;

18 (5) Use of topical applications, including lubricants, scrubs, or herbal preparations;

19 (6) Use of hot or cold applications;

20 (7) Use of hydrotherapy; and

21 (8) Client education.

22 Section 3. That § 36-35-2 be amended to read:

23 36-35-2. The board consists of five members appointed by the Governor. The term of a  
24 board member is three years. One member of the board shall be a person not licensed by the

1 board. Four members of the board shall be persons licensed by the board licensed and in good  
2 standing who have been engaged in the practice of massage therapy for not less than five  
3 consecutive years preceding the date of appointment. The Governor shall fill any vacancy by  
4 appointment to complete the unexpired portion of the vacancy. No person may serve more than  
5 three consecutive full terms on the board. The appointment to an unexpired term is not  
6 considered a full term.

7 The terms of members begin on October thirty-first of the calendar year in which the  
8 Governor appoints the member, unless otherwise designated by the Governor. The appointee's  
9 term expires on October thirtieth in the third year of appointment.

10 Section 4. That § 36-35-6.1 be amended to read:

11 36-35-6.1. The board may:

- 12 (1) Administer, coordinate, and enforce the provisions of this chapter;
- 13 (2) Evaluate the qualifications of applicants for licensure and permits and issue and  
14 renew licenses and permits;
- 15 (3) Maintain the names of persons that meet the qualifications for licensure;
- 16 (4) Conduct all disciplinary proceedings under this chapter;
- 17 (5) Maintain a record of each complaint received by the board;
- 18 (6) Establish standards for the safe and qualified practice of massage therapy;
- 19 (7) Report licensing actions and status to relevant state and federal governing bodies as  
20 may be required, or as the board deems appropriate; ~~and~~
- 21 (8) Employ or contract with personnel and enter into contracts pursuant to law to carry  
22 out the board's responsibilities;
- 23 (9) Collect demographic data of licensees and the profession;
- 24 (10) Maintain a database of all licensees, including disciplinary data;

1       (11) Issue an annual report; and

2       (12) Enter into appropriate data sharing information agreements according to state or  
3             federal law.

4       Section 5. That chapter 36-35 be amended by adding a NEW SECTION to read:

5       The board, or any of the board's officers, agents or employees so authorized, may enter and  
6 inspect, during business hours, any place where massage therapy is practiced for the purpose of  
7 enforcing this chapter and any rules adopted pursuant to chapter 36-35.

8       Section 6. That chapter 36-35 be amended by adding a NEW SECTION to read:

9       No person or entity may use the words massage therapy, bodywork therapy,  
10 massage-bodywork therapist, massage therapist, bodywork therapist, massage, licensed massage  
11 therapist, the acronym LMT, or any other words, abbreviations, or insignia indicating or  
12 implying, directly or indirectly, that the practice of massage therapy is provided or supplied,  
13 unless the person is licensed pursuant to chapter 36-35. A massage therapist may use the  
14 acronym LMT to designate licensure pursuant to chapter 36-35.

15       Section 7. That chapter 36-35 be amended by adding a NEW SECTION to read:

16       In addition to any other fees specified in this chapter, the board may assess additional fees  
17 for services rendered to carry out the board's duties and responsibilities as required under law,  
18 including:

- 19       (1) Issuance of duplicate licenses;
- 20       (2) Copies of requested documents;
- 21       (3) Certification of documents;
- 22       (4) Certification of license status;
- 23       (5) Notices of meetings; and
- 24       (6) Materials relevant to licensing and renewal of license.

1 Section 8. That chapter 36-35 be amended by adding a NEW SECTION to read:

2 Notwithstanding any other provision of law, the board shall publish on a timely basis any  
3 final adverse action duly entered. Publication of a final adverse action includes reporting to any  
4 applicable state and federal repository of any final board action. The board may also report a  
5 final adverse action to any data bank maintained by any appropriate organization of which the  
6 board is a member.



## **Senate Bill 207**

Background – In 2015, the Board of Massage Therapy undertook an extensive review and update of SDCL 36-35. As part of this review, input was sought from licensees in the state as well as the national massage therapy associations, including the Federation of State Massage Therapy Boards. The board held a series of teleconferences in late summer/early fall of 2015 to provide all massage therapists and the public with an opportunity to provide comments and input into the proposed legislation. The result of this work was HB 1027 during the 2016 legislative session.

### **Definitions**

“Clock hour” is not used in either the proposed language or current statute so it does not need to be defined. Conviction is used in current statutes but unsure as to why the definition is needed in this section.

### **Section 2**

Changes slightly the definition that was agreed to as part of the 2016 update. Expansions include: (1) use of herbal preparations, (2) hydrotherapy, and (3) active or passive stretching of the body within the normal anatomical range of movement. Omissions include use of compression and use of feet to provide therapy. The proposed changes, even though may appear slight, could bring opposition from other professions (i.e., chiropractors, PTs, etc.) who see this as an infringement on their scope. Massage therapists may also oppose the proposed omissions.

### **Section 3**

I assume this changes what was agreed to in the 2015 work group. Adds the language of needing to be in the profession and practicing for 5 years.

### **Section 4**

New language in number (10) and (11) we are already doing. Unclear as to what demographic information and data is asking to be retained and shared in (9) and (12).

### **Section 5**

Prior to 2013, the board did have the authority to inspect a place of business of a licensee regardless of whether a complaint was made or not however this authority was repealed in 2013 (HB 1126) in response to complaints that the executive director at the time was going into massage therapy businesses and asking to see licenses. As part of the 2016 practice act update, the Board did consider adding a requirement for establishment licensure but could not reach agreement on language. One issue to consider is the impact on individuals who practice in their homes, and the impact of establishment licensure in those situations. Would suggest bringing this topic back to the Board to reconsider and build consensus from massage therapists on this topic. There would be an added expense for inspections which is not spelled out.

## **Section 6**

The language of this section is already covered in other existing statute. SDCL 36-35-10 prohibits anyone from holding himself/herself out as engaged in the practice of massage therapy without a license. SDCL 36-35-8 requires a massage therapist to display a valid license or, if outside the regular place of business, a photo id and proof of licensure.

## **Section 7**

Increase in fees that should be specified and should be approved by the board. Currently don't charge for the issuance of a duplicate license.

## **Section 8**

Appears to be a repeat of much of the information already being collected and catalogued in Section 4.



# South Dakota Board of Massage Therapy

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E-mail: [sdbomt@gmail.com](mailto:sdbomt@gmail.com)

website: [doh.sd.gov/boards/Massage/](http://doh.sd.gov/boards/Massage/)

## APPLICATION FOR LICENSE

Attach Photo Here  
For identification purposes,  
the applicant shall furnish  
one color headshot taken not  
more than six months before  
the date of application.

### Please submit the following:

1. Completed application;
2. Nonrefundable application fee of \$75;
3. Licensing fee of \$45 (refundable if application is denied);
4. Copy of applicant's birth certificate or driver's license;
5. Verification of any name change by applicant;
6. Quality color photograph of applicant;
7. Proof of at least 500 hours of specific training in massage therapy by applicant  
(Completed Verification of Education Form from your school);
8. Proof of applicant's passing score on an accepted national certification exam;
9. A verification letter from each state where licensed, along with a copy of license; and
10. Proof of Malpractice or Professional Liability Insurance of at least \$250,000.

*A non-refundable fee of \$75 is required to be submitted with this application. Any application pending for 12 months or more will be returned to the applicant.*

*A licensing fee of \$45 is required to be submitted with this application. If your application is denied, this fee will be refunded.*

### APPLICANT INFORMATION

Name: \_\_\_\_\_  
(first) (middle) (last)

Formerly Known As, if applicable: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

E-mail: \_\_\_\_\_

Cell Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

### EMPLOYMENT INFORMATION

Name of Business: \_\_\_\_\_ Phone: \_\_\_\_\_

Physical Address: \_\_\_\_\_ Mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you have another business addresses?  YES  NO *If yes, please provide additional contact information on a separate sheet.*

Do you prefer to receive mail from the Board at your:  Home  Primary Business

**MILITARY STATUS**

Are you the spouse of a member of the armed forces of the United States? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, was your spouse the subject of a military transfer to South Dakota? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, did you leave employment to accompany your spouse to South Dakota? \_\_\_\_\_ YES \_\_\_\_\_ NO

**EDUCATION** *(Please provide proof of all education stated.)*

Have you completed at least 500 of specific training in the practice of massage therapy? \_\_\_\_\_

Name of Facility where completed: \_\_\_\_\_

Date of Completion: \_\_\_\_\_

*A completed Verification of Education Form is required to verify your massage therapy training.*

**NATIONAL EXAMINATION**

A passing score on a national certification exam is required for licensure. Please indicate which exam you passed.

NESCL (NCBTMB)

NBCA Massage Therapy Certification Exam (AMMA)

NCETMB (NCBTMB)

MBLEX (FSMTB)

NCETM (NCBTMB)

**Please provide official/sealed proof from the exam service sent directly to the SD Board of Massage Therapy. Copies will not be accepted.**

**PROOF OF MALPRACTICE OR PROFESSIONAL LIABILITY INSURANCE:** *(Please attach verification of your insurance coverage Certificate of Insurance or Policy Declaration Page).*

Malpractice or professional liability insurance coverage of at least \$250,000 is required by law (SDCL 36-35-21) for your licensure. The applicant must be a named insured of the coverage.

Please provide the following information for your insurance coverage. If your insurance coverage expires during the term of your massage license, you are required by law to renew it.

Please include proof of your malpractice or professional liability insurance coverage by submitting a copy of your declarations page or certificate of insurance form your policy with this application.

Effective Date	Expiration Date	Carrier Name	Policy Number	Coverage Amount

**LEGAL QUESTIONS** (If you answer yes to any question, please provide a written explanation.)

Have you been convicted of or pled guilty to a felony, any crime involving or relating to the practice of massage, or any crime involving dishonesty or moral turpitude? \_\_\_ YES \_\_\_ NO

Have you been disciplined with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a professional license in any state? \_\_\_\_\_ YES \_\_\_\_\_ NO

Are you \$1,000 or more behind in child support payments? \_\_\_ YES \_\_\_ NO

**OTHER LICENSES**

Do you currently hold a valid license to practice massage therapy in another state or the District of Columbia?  
\_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, which state(s)? \_\_\_\_\_  
*(If yes, please attach a copy of the current license. A letter of from the issuing state must be sent to the SD Board of Massage Therapy.)*

**ASSOCIATIONS/3<sup>rd</sup> PARTY COMMUNICATIONS**

Are you a member of a national massage therapy association? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, which association: \_\_\_\_\_ ABMP \_\_\_\_\_ AMTA \_\_\_\_\_ NAMT \_\_\_\_\_ Other

Would you like to receive mailings about continuing education opportunities from third parties? \_\_\_\_\_ YES \_\_\_\_\_ NO

**STATISTICAL INFORMATION**

These questions are asked for statistical purposes. Your answers are optional.

Do you practice massage therapy: \_\_\_\_\_ Full Time \_\_\_\_\_ Part Time \_\_\_\_\_ Do Not Practice

What is your gender? \_\_\_\_\_ Female \_\_\_\_\_ Male

What is your race? Please check all that apply.

- Asian
- American Indian or Alaska Native
- Black or African American
- Native Hawaiian or Pacific Islander
- Hispanic or Latino
- White or Caucasian
- Other
- Decline to Provide





# South Dakota Board of Massage Therapy

1103 Park Hill Drive, Rapid City, SD 57701

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E-mail: [sdbomt@gmail.com](mailto:sdbomt@gmail.com)

website: [doh.sd.gov/boards/Massage/](http://doh.sd.gov/boards/Massage/)

## **VERIFICATION OF EDUCATION FORM**

*Verification of Education Form must be completed by the School President or Program Director and submitted with official transcripts.*

### APPLICANT/STUDENT

Name: \_\_\_\_\_

### SCHOOL

1. Name: \_\_\_\_\_

2. Address: \_\_\_\_\_

3. Qualifications:

The school listed above meets one of the following criteria (*check one and provide official proof*):

- Licensed or approved by the State Board of Massage Therapy where that training facility is located:

**OR**

- Nationally Accredited by one of the following (*check one and provide official proof*)

- Commission on Massage Therapy Accreditation (COMTA)
- Accrediting Council for Independent Colleges and Schools (ACICS)
- National Accrediting Commission of Career Arts & Sciences (NACCAS)
- Accrediting Council for Continuing Education and Training (ACCET)
- Accrediting Commission of Career Schools and Colleges (ACCSC)
- Accrediting Commission of the Distance Education and Training Council (DETC)
- Higher Learning Commission (HLC)
- Accrediting Bureau of Health Education Schools (ABHES)
- Other: \_\_\_\_\_

4. Date of Admission: \_\_\_\_\_ Date of Completion: \_\_\_\_\_

Date of Graduation: \_\_\_\_\_ Credential Award: \_\_\_\_\_

Subject ( <i>In-class instructor supervised coursework</i> )	Hours of Classroom Instruction (1 credit = 10 hrs of classroom instruction)	
Human Anatomy, Physiology, and Kinesiology (to include all 11 systems of the human body) • Minimum of 125 hours required		
Clinical Pathology and recognition of various conditions • Minimum of 40 hours required		
Massage/Bodywork Theory, Assessment and Application • Minimum of 200 hours required		
Training in an area or related field that theoretically complete the massage program • Minimum of 125 hours required		
Business Practices and Professionalism • Minimum of 10 hours total required (to include 6 clock hours of ethics)		# Ethics Hours
Other:		
	<b>Total Hours</b>	

Verification must be made by the School President or Program Director. The completed Verification of Education Form can be sent directly to the South Dakota Board of Massage Therapy at 1103 Park Hill Drive, Rapid City, SD 57701 or provided to the Student/Applicant **in a sealed envelope along with official transcripts.**

**To be signed in the presence of a Notary Public**

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE FOREGOING IS A TRUE STATEMENT OF THE RECORD OF THE INDIVIDUAL NAMED ON THIS FORM.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title /Position: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

State of \_\_\_\_\_ )  
 ) SS  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the above \_\_\_\_\_ personally appeared, known to me or satisfactorily proven to be the same person whose name is subscribed to the written instrument, and acknowledged that she/he executed the same for the purposes therein contained. In witness whereof, I have hereunto set my hand and official seal.

(SEAL) \_\_\_\_\_, Notary Public  
Notary Printed Name \_\_\_\_\_  
My Commission Expires \_\_\_\_\_





## South Dakota Board of Massage Therapy

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website: [doh.sd.gov/boards/Massage/](http://doh.sd.gov/boards/Massage/)

### **APPLICATION FOR INACTIVE LICENSE**

Please submit the following:

1. Completed application; and
2. Nonrefundable fee of \$25.

Name: \_\_\_\_\_ License Number: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_

Name of Business: \_\_\_\_\_ Phone: \_\_\_\_\_  
Physical Address: \_\_\_\_\_ Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

An Inactive License is **not a license to practice** massage therapy. An Inactive License has no expiration date and can be activated by paying the current license fee and providing proof of at least 8 hours of qualifying continuing education in the two-year period preceding a reactivation request.

*BY MY SIGNATURE BELOW, I VERIFY, THAT I UNDERSTAND AN INACTIVE LICENSE IS NOT A LICENSE TO PRACTICE MASSAGE THERAPY AND, UNDER PENALTY OF LAW, I WILL NOT PRACTICE MASSAGE THERAPY WITHOUT AN ACTIVE LICENSE. I HAVE READ, AND AM FAMILIAR WITH THE SOUTH DAKOTA CODIFIED LAWS REGULATING MASSAGE THERAPY AND HEREBY AGREE TO ABIDE BY SUCH LAWS.*

\_\_\_\_\_  
Signature of Licensee

\_\_\_\_\_  
Date

*For Office Use Only: Check # \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_*



**LEGAL QUESTIONS** (If you answer yes to any question, please provide a written explanation.)

Have you been convicted of or pled guilty to a felony, any crime involving or relating to the practice of massage, or any crime involving dishonesty or moral turpitude? \_\_\_ YES \_\_\_ NO

Have you been disciplined with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a professional license in any state? \_\_\_ YES \_\_\_ NO

Are you \$1,000 or more behind in child support payments? \_\_\_ YES \_\_\_ NO

**MALPRACTICE OR PROFESSIONAL LIABILITY INSURANCE** (Please attach verification of your insurance coverage Certificate of Insurance or Policy Declarations Page).

Malpractice or professional liability insurance coverage of at least \$250,000 is required by law (SDCL 36-35-21) for your licensure. The applicant must be a named insured of the coverage.

Please provide the following information for your insurance coverage. If your insurance coverage expires during the term of your massage license, you are required by law to renew it.

Please include proof of your malpractice or professional liability insurance coverage by submitting a copy of your declarations page or certificate of insurance form your policy with this application.

Effective Date	Expiration Date	Carrier Name	Policy Number	Coverage Amount

**CONTINUING EDUCATION VERIFICATION:** Please attach verification of each course listed. You must also maintain a copy of the verification for your records for 2 years after the date of this renewal.

The South Dakota Board of Massage Therapy requires that each licensed massage therapist accumulate at least 8 hours of continuing education every two years (SDCL 36-35-19). Accepted continuing education is any course with a clear purpose and objective which maintains, improves, or expands the skills and knowledge relevant to massage therapy of the human body. Qualifying continuing education must meet the definition of massage therapy pursuant to § 36-35-1(3) or be education presented by an approved provider of the National Certification Board for Therapeutic Massage and Bodywork, American Medical Massage Association, or Federation of State Massage Therapy Boards.

Any or all of the required 8 hours of continuing education may be obtained electronically (online or by other electronic means).

Please list each continuing education program you are claiming in the spaces provide below. Please include a copy of the certificate of completion for all educational activities listed.

Start Date	End Date	Title of Educational Activity	Provider Number (if applicable)	Hours Earned

## **STATISTICAL INFORMATION**

These questions are asked for statistical purposes. Your answers are optional.

Do you practice massage therapy: \_\_\_\_\_ Full Time \_\_\_\_\_ Part Time \_\_\_\_\_ Do Not Practice

What is your gender? \_\_\_\_\_ Female \_\_\_\_\_ Male

What is your race? Please check all that apply.

- Asian
- American Indian or Alaska Native
- Black or African American
- Native Hawaiian or Pacific Islander
- Hispanic or Latino
- White or Caucasian
- Other
- Decline to Provide





# South Dakota Board of Massage Therapy

1103 Park Hill Drive, Rapid City, SD 57701

Phone: 605-858-1708 Fax: 605-653-3879

E-mail: [sdbomt@gmail.com](mailto:sdbomt@gmail.com)

website: [doh.sd.gov/boards/Massage/](http://doh.sd.gov/boards/Massage/)

## **APPLICATION FOR TEMPORARY PERMIT**

Please submit the following:

1. Completed application;
2. Nonrefundable application fee of \$75;
3. Temporary Permit fee of \$50 (refundable if application is denied);
4. Copy of applicant's birth certificate or driver's license;
5. Verification of any name change by applicant;
6. Quality color photograph of applicant;
7. Proof of at least 500 hours of specific training in massage therapy by applicant  
(Completed Verification of Education Form from your school);
8. A verification letter from each state where licensed, along with a copy of license;
9. Proof of Malpractice or Professional Liability Insurance of at least \$250,000.

*Attach Photo Here*

For identification purposes,  
the applicant shall furnish  
one color headshot taken not  
more than six months before  
the date of application.

***A non-refundable fee of \$75 is required to be submitted with this application.***

***If issued, a Temporary Permit is valid for up to 90 days. A Temporary Permit expires after 90 days  
or in the event a regular license is issued or upon failure to pass a licensing examination.***

***Upon passage of a licensing exam, the Temporary Permit holder  
must complete an application for licensure and pay a licensing fee of \$45.***

### **APPLICANT INFORMATION**

Name: \_\_\_\_\_

Formerly Known As, if applicable: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

E-mail: \_\_\_\_\_

Cell Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

### **EMPLOYMENT INFORMATION**

Name of Business: \_\_\_\_\_ Phone: \_\_\_\_\_

Physical Address: \_\_\_\_\_ Mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you have another business addresses?  YES  NO ***If yes, please provide additional contact information  
on a separate sheet.***

Do you prefer to receive mail from the Board at your: \_\_\_\_\_ Home \_\_\_\_\_ Primary Business

Would you like to receive email communications (i.e. newsletters, reminders, etc.) from the Board?  YES  NO

**MILITARY STATUS**

Are you the spouse of a member of the armed forces of the United States? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, was your spouse the subject of a military transfer to South Dakota? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, did you leave employment to accompany your spouse to South Dakota? \_\_\_\_\_ YES \_\_\_\_\_ NO

**EDUCATION** *(Please provide proof of all education stated.)*

Have you completed at least 500 of specific training in the practice of massage therapy? \_\_\_\_\_ Yes \_\_\_\_\_ No

Name of Facility where completed: \_\_\_\_\_

Date of Completion: \_\_\_\_\_

*A completed Verification of Education Form is required to verify your massage therapy training.*

**PROOF OF MALPRACTICE OR PROFESSIONAL LIABILITY INSURANCE**

Malpractice or professional liability insurance coverage of at least \$250,000 is required by law (SDCL 36-35-21) for your licensure. The applicant must be a named insured of the coverage.

Please provide the following information for your insurance coverage. If your insurance coverage expires during the term of your massage license, you are required by law to renew it.

Please include proof of your malpractice or professional liability insurance coverage by submitting a copy of your declarations page or certificate of insurance form your policy with this application.

Effective Date	Expiration Date	Carrier Name	Policy Number	Coverage Amount

**LEGAL QUESTIONS** *(If you answer yes to any question, please provide a written explanation.)*

Have you been convicted of or pled guilty to a felony, any crime involving or relating to the practice of massage, or any crime involving dishonesty or moral turpitude? \_\_\_ YES \_ NO

Have you been disciplined with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a professional license in any state? \_\_\_\_\_ YES \_\_\_\_\_ NO

Are you \$1,000 or more behind in child support payments? \_\_\_ YES \_\_\_ NO

**OTHER LICENSES**

Do you currently hold a valid license to practice massage therapy in another state or the District of Columbia?

\_\_\_\_\_ YES \_\_\_\_\_ NO If Yes, which state (s)? \_\_\_\_\_

*(If yes, please attach a copy of the current license. A letter of from the issuing state must be sent to the SD Board of Massage Therapy.)*

**ASSOCIATIONS/3<sup>rd</sup> PARTY COMMUNICATIONS**

Are you a member of a national massage therapy association? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, which association: \_\_\_\_\_ ABMP \_\_\_\_\_ AMTA \_\_\_\_\_ NAMT \_\_\_\_\_ Other

Would you like to receive mailings about continuing education opportunities from third parties? \_\_\_\_\_ YES \_\_\_\_\_ NO

**STATISTICAL INFORMATION**

These questions are asked for statistical purposes. Your answers are optional.

Do you practice massage therapy: \_\_\_\_\_ Full Time \_\_\_\_\_ Part Time \_\_\_\_\_ Do Not Practice

What is your gender? \_\_\_\_\_ Female \_\_\_\_\_ Male

What is your race? Please check all that apply.

- Asian
- American Indian or Alaska Native
- Black or African American
- Native Hawaiian or Pacific Islander
- Hispanic or Latino
- White or Caucasian
- Other
- Decline to Provide

**APPLICATION/LICENSE FEE** *Please include a personal check, cashier's check, certified check or money order made payable to the State of South Dakota for the applicable amount.*

- \$75 non-refundable Temporary Permit Application fee
- \$50 refundable Temporary Permit fee (Refundable if license is denied)

*If issued, a Temporary Permit is valid for up to 90 days. A Temporary Permit expires after 90 days or in the event a regular license is issued or upon failure to pass a licensing examination.*

*Upon passage of a licensing exam, the Temporary Permit holder must complete an application for licensure and pay a licensing fee of \$45.*







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E-mail: [sdbomt@gmail.com](mailto:sdbomt@gmail.com)

website: [doh.sd.gov/boards/Massage/](http://doh.sd.gov/boards/Massage/)

## **APPLICATION FOR LICENSE BY RECIPROCITY**

Attach Photo Here  
For identification purposes,  
the applicant shall furnish  
one color headshot taken not  
more than six months before  
the date of application.

Please submit the following:

1. Completed application;
  2. Nonrefundable application fee of \$75;
  3. Licensing fee of \$45 (refundable if application is denied);
  4. Copy of applicant's birth certificate or driver's license;
  5. Verification of any name change by applicant, if applicable;
  6. Quality color photograph of applicant;
  7. Verification letter from each state where licensed, along with a copy of license;
  8. Proof of specific training in massage therapy by applicant that is substantially similar to the training required for licensure (Completed Verification of Education Form from your school);
- or**
- Proof of an active massage therapy practice in the state(s) of current licensure in the two years immediately preceding the date of this application; and
9. Proof of Malpractice or Professional Liability Insurance of at least \$250,000.

***A non-refundable fee of \$75 is required to be submitted with this application. Any application pending for 12 months or more will be returned to the applicant.***

***A licensing fee of \$45 is required to be submitted with this application. If your application is denied, this fee will be refunded.***

### **APPLICANT INFORMATION**

Name: \_\_\_\_\_

Formerly Known As, if applicable: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

E-mail: \_\_\_\_\_ Phone: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

### **EMPLOYMENT INFORMATION**

Name of Business: \_\_\_\_\_ Phone: \_\_\_\_\_

Physical Address: \_\_\_\_\_ Mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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Would you like to receive email communications (i.e. newsletters, reminders, etc.) from the Board?  YES  NO

**MILITARY STATUS**

Are you the spouse of a member of the armed forces of the United States? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, was your spouse the subject of a military transfer to South Dakota? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, did you leave employment to accompany your spouse to South Dakota? \_\_\_\_\_ YES \_\_\_\_\_ NO

**EDUCATION** *(Please provide proof of all education stated.)*

Have you completed massage specific training? \_\_\_\_\_ YES \_\_\_\_\_ NO

Name of Facility where completed: \_\_\_\_\_

Date of Completion: \_\_\_\_\_

*A completed Verification of Education Form is required to verify your massage therapy training if you are requesting a license by reciprocity based on education.*

**OTHER LICENSES**

In what state(s) do you hold an active license to practice massage therapy? \_\_\_\_\_

Date the license(s) was issued? \_\_\_\_\_ Date the license(s) expires? \_\_\_\_\_

*Please attach a copy of the current license. A letter verifying the license(s) from the issuing state(s) must be sent to the South Dakota Board of Massage Therapy noting the date the license was issued, the expiration date of the license, and the holder's standing with the state(s).*

**PROOF OF ACTIVE PRACTICE**

In the past 24 months, have you actively practiced\* massage therapy in the state(s) you where you currently hold an active license? \_\_\_\_\_ YES \_\_\_\_\_ NO

*\*For purposes of answering this question, "actively practiced" means at least 200 hours of patient contact hours in the two year period preceding this application. Documentation of an active practice may be requested by the Board. Such documentation may include an affidavit, patient logs, calendars, or other proof an active practice by the applicant.*

**PROOF OF MALPRACTICE OR PROFESSIONAL LIABILITY INSURANCE**

Malpractice or professional liability insurance coverage of at least \$250,000 is required by law (SDCL 36-35-21) for your licensure. The applicant must be a named insured of the coverage.

Please provide the following information for your insurance coverage. If your insurance coverage expires during the term of your massage license, you are required by law to renew it.

Please include proof of your malpractice or professional liability insurance coverage by submitting a copy of your declarations page or certificate of insurance form your policy with this application.

Effective Date	Expiration Date	Carrier Name	Policy Number	Coverage Amount

**LEGAL QUESTIONS** (If you answer yes to any question, please provide a written explanation.)

Have you been convicted of or pled guilty to a felony, any crime involving or relating to the practice of massage, or any crime involving dishonesty or moral turpitude? \_\_\_ YES \_\_\_ NO

Have you been disciplined with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a professional license in any state? \_\_\_\_\_ YES \_\_\_\_\_ NO

Are you \$1,000 or more behind in child support payments? \_\_\_ YES \_\_\_ NO

**ASSOCIATIONS/3<sup>rd</sup> PARTY COMMUNICATIONS**

Are you a member of a national massage therapy association? \_\_\_\_\_ YES \_\_\_\_\_ NO

If Yes, which association: \_\_\_\_\_ ABMP \_\_\_\_\_ AMTA \_\_\_\_\_ NAMT \_\_\_\_\_ Other

Would you like to receive mailings about continuing education opportunities from third parties? \_\_\_ YES \_\_\_ NO

**STATISTICAL INFORMATION**

These questions are asked for statistical purposes. Your answers are optional.

Do you practice massage therapy: \_\_\_\_\_ Full Time \_\_\_\_\_ Part Time \_\_\_\_\_ Do Not Practice

What is your gender? \_\_\_\_\_ Female \_\_\_\_\_ Male

What is your race? Please check all that apply.

- Asian
- American Indian or Alaska Native
- Black or African American
- Native Hawaiian or Pacific Islander
- Hispanic or Latino
- White or Caucasian
- Other
- Decline to Provide

**APPLICATION/LICENSE FEE** Please include a personal check, cashier's check, certified check or money order made payable to the State of South Dakota for the applicable amount.

- \$75 non-refundable application fee
- \$45 licensing fee (refundable if application is denied)



## Summary of State Massage Therapy License Renewal Fees

State	Initial Application Fee	Initial License Fee	State Exam Fee	Other Fees	Total Fees	Renewal Fee	Renewal Term (yrs)	Notes
Alabama	\$25.00	\$100.00			\$125.00	\$100.00	2	
Alaska	\$200.00	\$350.00			\$550.00	\$350.00	2	
Arizona	\$217.00	Included			\$217.00	\$95.00	2	Initial fee includes background check
Arkansas	\$75.00	\$80.00	\$25.00		\$180.00	\$80.00	2	
California	\$150.00	Included			\$150.00	\$150.00	2	
Colorado	\$200.00	Included			\$200.00	\$179.00	2	Renewal fee revised and announced every 2 years. \$179 fee announced for 2016
Connecticut	\$375.00	Included		\$4.75	\$379.75	\$255.00	4	
Delaware	\$134.00	Included			\$134.00	\$134.00	2	
District of Columbia	\$262.00	Included			\$262.00	\$177.00	2	
Florida	\$50.00	\$100.00		\$5.00	\$155.00	\$105.00	2	\$5 unlicensed activity fee
Georgia	\$125.00	Included			\$125.00	\$75.00	2	
Hawaii	\$50.00	\$64.00	\$90.00		\$204.00	\$64.00	2	
Idaho	\$50.00	\$65.00			\$115.00	\$65.00	1	
Illinois	\$175.00	Included			\$175.00	\$175.00	2	
Indiana	\$100.00	Included			\$100.00	\$150.00	4	
Iowa	\$120.00	Included			\$120.00	\$60.00	2	
Kentucky	\$50.00	\$75.00			\$125.00	\$100.00	2	
Louisiana	\$75.00	Included			\$75.00	\$125.00	1	
Maine	\$25.00	\$40.00		\$21.00	\$86.00	\$40.00	1	\$21 criminal history check fee
Maryland	\$150.00	\$200.00	\$100.00		\$450.00	\$250.00	2	
Massachusetts	\$225.00	Included			\$225.00	\$150.00	1	
Michigan	\$98.80	Included			\$98.80	\$234.00	3	
Mississippi	\$50.00	\$200.00			\$250.00	\$200.00	1	
Missouri	\$125.00	Included			\$125.00	\$100.00	2	
Montana	\$140.00	Included			\$140.00	\$90.00	2	
Nebraska	\$110.00	Included			\$110.00	\$110.00	2	
Nevada	\$155.00	\$100.00		\$125.00	\$380.00	\$150.00	1	\$125 for background check fee
New Hampshire	\$110.00	Included			\$110.00	\$110.00	2	
New Jersey	\$75.00	\$120.00			\$195.00	\$120.00	2	
New Mexico	\$75.00	\$120.00			\$195.00	\$125.00	2	
New York	\$50.00	included	\$58.00		\$108.00	\$103.00	3	Renewal fee includes \$58 registration fee and \$45 mandatory CE fee
North Carolina	\$190.00	Included			\$190.00	\$100.00	2	Initial fee includes background check
North Dakota	\$150.00	Included			\$150.00	\$200.00	2	
Ohio	\$150.00	Included		\$3.50	\$153.50	\$100.00	2	\$3.50 transaction fee
Oklahoma	\$50.00	Included			\$50.00	\$50.00	2	
Oregon	\$100.00	\$100.00			\$200.00	\$155.00	2	
Pennsylvania	\$65.00	Included			\$65.00	\$75.00	2	
Rhode Island	\$65.00	Included			\$65.00	\$65.00	1	
South Carolina	\$50.00	\$100.00			\$150.00	\$75.00	2	
South Dakota	\$75.00	\$45.00			\$120.00	\$45.00	1	
Tennessee	\$85.00	\$185.00		\$10.00	\$280.00	\$195.00	2	\$10 for State Regulatory Fee
Texas	\$100.00	Included			\$100.00	\$75.00	2	
Utah	\$95.00	Included			\$95.00	\$52.00	2	Initial fee includes background check
Virginia	\$140.00	Included			\$140.00	\$95.00	2	
Washington	\$141.00	Included			\$141.00	\$106.00	2	
West Virginia	\$50.00	\$300.00			\$350.00	\$200.00	2	
Wisconsin	\$75.00	Included	\$75.00		\$150.00	\$82.00	2	

\*"Included" means the item is included in the main fee and not separately accounted.

\*Fees shown herein per state regulatory board/agency websites as of April 2018.

\*Fees for background checks or fingerprinting are not included, unless specifically stated otherwise.

# Remaining Authority by Object/Subobject

Expenditures current through 04/28/2018 09:23:22 AM

HEALTH -- Summary

FY 2018 Version -- AS -- Budgeted and Informational

FY Remaining: 17.5 %

09211 Board of Massage Therapy - Info							PCT
Subobject	Operating	Expenditures	Encumbrances	Commitments	Remaining		AVL
<b>EMPLOYEE SALARIES</b>							
5101030 Board & Comm Mbrs Fees	750	300	0	0	450		60.0
<b>Subtotal</b>	<b>750</b>	<b>300</b>	<b>0</b>	<b>0</b>	<b>450</b>		<b>60.0</b>
<b>EMPLOYEE BENEFITS</b>							
5102010 Oasi-employer's Share	80	24	0	0	56		70.0
<b>Subtotal</b>	<b>80</b>	<b>24</b>	<b>0</b>	<b>0</b>	<b>56</b>		<b>70.0</b>
<b>51 Personal Services</b>							
<b>Subtotal</b>	<b>830</b>	<b>324</b>	<b>0</b>	<b>0</b>	<b>506</b>		<b>61.0</b>
<b>TRAVEL</b>							
5203030 Auto-priv (in-st.) H/rte	1,500	419	0	0	1,081		72.1
5203100 Lodging/in-state	250	63	0	0	187		74.8
5203120 Incidentals-travel-in St.	100	0	0	0	100		100.0
5203130 Non-employ. Travel-in St.	100	0	0	0	100		100.0
5203140 Meals/taxable/in-state	100	11	0	0	89		89.0
5203150 Non-taxable Meals/in-st	100	36	0	0	64		64.0
<b>Subtotal</b>	<b>2,150</b>	<b>529</b>	<b>0</b>	<b>0</b>	<b>1,621</b>		<b>75.4</b>
<b>CONTRACTUAL SERVICES</b>							
5204020 Dues & Membership Fees	900	0	0	0	900		100.0
5204050 Computer Consultant	500	0	0	0	500		100.0
5204080 Legal Consultant	7,500	16,570	4,385	0	-13,455		0.0
5204090 Management Consultant	53,000	37,811	37,789	0	-22,600		0.0
5204130 Other Consulting	0	1,452	1,048	0	-2,500		0.0
5204200 Central Services	600	606	0	0	-6		0.0
5204204 Central Services	125	1,271	0	0	-1,146		0.0
5204207 Central Services	300	100	0	0	200		66.7
5204340 Computer Software Maint	5,400	200	0	0	5,200		96.3
5204360 Advertising-newspaper	375	0	0	0	375		100.0
5204510 Rents-other	0	175	0	0	-175		0.0
5204530 Telecommunications Srves	300	258	0	0	42		14.0
5204550 Garbage & Sewer	20	9	0	0	11		55.0
5204590 Ins Premiums & Surety Bds	350	815	0	0	-465		0.0
5204960 Other Contractual Service	500	968	0	0	-468		0.0
<b>Subtotal</b>	<b>69,870</b>	<b>60,235</b>	<b>43,222</b>	<b>0</b>	<b>-33,587</b>		<b>0.0</b>
<b>SUPPLIES &amp; MATERIALS</b>							

# Remaining Authority by Object/Subobject

Expenditures current through 04/28/2018 09:23:22 AM

HEALTH -- Summary

FY 2018 Version -- AS -- Budgeted and Informational

FY Remaining: 17.5 %

09211 Board of Massage Therapy - Info						PCT
Subobject	Operating	Expenditures	Encumbrances	Commitments	Remaining	AVL
5205020 Office Supplies	100	66	0	0	34	34.0
5205310 Printing-state	400	94	0	0	306	76.5
5205320 Printing-commercial	400	403	0	0	-3	0.0
5205350 Postage	1,250	1,158	0	0	92	7.4
5205390 Food Stuffs	0	30	0	0	-30	0.0
<b>Subtotal</b>	<b>2,150</b>	<b>1,751</b>	<b>0</b>	<b>0</b>	<b>399</b>	<b>18.6</b>
<hr/>						
<b>52 Operating</b>						
<b>Subtotal</b>	<b>74,170</b>	<b>62,515</b>	<b>43,222</b>	<b>0</b>	<b>-31,567</b>	<b>0.0</b>
<hr/>						
<b>Total</b>	<b>75,000</b>	<b>62,839</b>	<b>43,222</b>	<b>0</b>	<b>-31,061</b>	<b>0.0</b>



STATE OF SOUTH DAKOTA  
 REVENUE SUMMARY BY BUDGET UNIT  
 FOR PERIOD ENDING: 04/30/2018

AGENCY 09 HEALTH  
 BUDGET UNIT 09211 BOARD OF MASSAGE THERAPY

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
COMPANY NO		6503				
COMPANY NAME		PROFESSIONAL & LICENSING BOARDS				
092110061840	6503	4293101	RENEWAL FEES	.00	35,462.00	
092110061840	6503	4293102	INACTIVE FEES	.00	475.00	
092110061840	6503	4293103	TEMPORARY FEES	100.00	595.00	
092110061840	6503	4293104	REACTIVATION FEE	90.00	450.00	
092110061840	6503	4293106	INITIAL LICENSE FEE	455.00	4,120.00	
092110061840	6503	4293990	MASSAGE THERAPY LIC & APP	180.00	4,550.00	
ACCT:	4293	BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		825.00	45,652.00	*
ACCT:	42	LICENSES, PERMITS & FEES		825.00	45,652.00	**
092110061840	6503	4595001	MISC INCOME COPIES-LISTS	.00	700.00	
ACCT:	4595			.00	700.00	*
ACCT:	45	CHARGES FOR SALES & SERVICES		.00	700.00	**
092110061840	6503	4920045	NONOPERATING REVENUES	.00	1,042.30	
ACCT:	4920	NONOPERATING REVENUE		.00	1,042.30	*
ACCT:	49	OTHER REVENUE		.00	1,042.30	**
CNTR:	092110061840			825.00	47,394.30	***
CNTR:	092110061			825.00	47,394.30	****
CNTR:	0921100			825.00	47,394.30	*****
COMP:	6503			825.00	47,394.30	*****
B UNIT:	09211			825.00	47,394.30	*****

STATE OF SOUTH DAKOTA  
CASH CENTER BALANCES  
AS OF: 04/30/2018

AGENCY: 09 HEALTH  
BUDGET UNIT: 09211 BOARD OF MASSAGE THERAPY

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100061840	1140000	47,255.45	DR	BOARD OF MASSAGE THERAPY
COMPANY/SOURCE TOTAL 6503 618			47,255.45	DR *	
COMP/BUDG UNIT TOTAL 6503 09211			47,255.45	DR **	
BUDGET UNIT TOTAL 09211			47,255.45	DR ***	

**EXHIBIT B**

**LETTER OF ENGAGEMENT FOR LEGAL SERVICES**

DATE: May 22, 2017 – May 31, 2018

NAME/ADDRESS:

Kris O'Connell and Morgan Brekke  
Woods Fuller Schultz & Smith  
300 South Phillips Avenue Suite 300  
Sioux Falls, SD 57117

RE: Legal Counsel Services for Board of Massage Therapy

Dear Ms. O'Connell and Ms. Brekke:

Thank you for agreeing to represent the South Dakota Department of Health, Board of Massage Therapy in accordance with the agreed upon SCOPE OF WORK as outlined:

Provide legal counsel services to the South Dakota Board of Massage Therapy.

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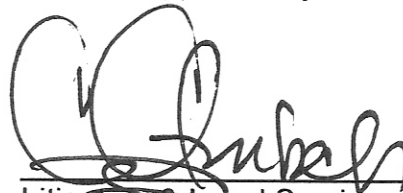
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At an hourly rate of \$140.00

If you have any questions regarding this matter, I would appreciate you calling me so that we may discuss.



Kim Malsam-Rysdon  
Secretary of Health  
South Dakota Department of Health



Litigation & Legal Services Manager

cc: Marty Jackley, Attorney General

## CHAPTER 36-35

## MESSAGE THERAPISTS

<a href="#">36-35-1</a>	Definitions.
<a href="#">36-35-2</a>	Appointment of board members--Terms--Vacancy.
<a href="#">36-35-3</a>	Resignation of board members--Effective date.
<a href="#">36-35-4</a>	Selection of officers.
<a href="#">36-35-5</a>	Meetings of board.
<a href="#">36-35-6</a>	Quorum--Majority vote.
<a href="#">36-35-6.1</a>	Powers of board.
<a href="#">36-35-7</a>	Compensation of board members.
<a href="#">36-35-8</a>	Display of license_Proof of licensure.
<a href="#">36-35-9</a>	Use of fees.
<a href="#">36-35-10</a>	Practice of massage without license or employment of unlicensed person as misdemeanor.
<a href="#">36-35-11</a>	Repealed.
<a href="#">36-35-12</a>	Application for license--Qualifications--Appeal of denial.
<a href="#">36-35-12.1</a>	Temporary permit.
<a href="#">36-35-12.2</a>	Repealed.
<a href="#">36-35-12.3</a>	Expiration of license.
<a href="#">36-35-13</a>	Unprofessional conduct.
<a href="#">36-35-14</a>	Repealed.
<a href="#">36-35-15</a>	Applicants licensed in other states.
<a href="#">36-35-16</a>	Renewal of license.
<a href="#">36-35-17</a>	Application and license fees.
<a href="#">36-35-18</a>	Duplicate license.
<a href="#">36-35-18.1</a>	Inactive status.
<a href="#">36-35-19</a>	Continuing education requirements.
<a href="#">36-35-20</a>	Investigation of complaints--Inspections.
<a href="#">36-35-21</a>	Professional liability insurance coverage.
<a href="#">36-35-22</a>	Grounds for cancellation, suspension, or revocation of license--Hearing--Appeal.
<a href="#">36-35-23</a>	Reapplication for cancelled, suspended, or revoked license.
<a href="#">36-35-24</a>	Promulgation of rules.
<a href="#">36-35-25</a>	Application of chapter.

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36-35-1. Definitions. Terms in this chapter mean:

- (1) "Board," the Board of Massage Therapy;
- (2) "Licensee," a person who meets the qualifications for licensure pursuant to this chapter and holds a valid license to practice massage therapy;
- (3) "Massage," the systematic mobilization of the soft tissues of the body through the application of hands, feet, or devices for the purposes of therapy, relaxation, or education through means which include:
  - (a) Pressure, friction, stroking, rocking, kneading, percussion, compression, or stretching;
  - (b) External application of water, heat, cold, lubricants, or other topical agents; or
  - (c) The use of devices that mimic or enhance the actions of human hands or feet; and
- (4) "Practice of massage therapy," the performance of massage for a fee or other compensation or holding oneself out to the public as performing massage.

**Source:** SL 2005, ch 206, § 1; SL 2016, ch 197, § 1.

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36-35-2. Appointment of board members--Terms--Vacancy. The board consists of five members appointed by the Governor. The term of a board member is three years. One member of the board shall be a person not licensed by the board. Four members of the board shall be persons licensed by the board. The Governor shall fill any vacancy by appointment to complete the unexpired portion of the vacancy. No person may serve more than three consecutive full terms on the board. The appointment to an unexpired term is not considered a full term.

The terms of members begin on October thirty-first of the calendar year in which the Governor appoints the member, unless otherwise designated by the Governor. The appointee's term expires on October thirtieth in the third year of appointment.

**Source:** SL 2005, ch 206, § 2; SL 2012, ch 16, § 14; SL 2013, ch 176, § 8; SL 2016, ch 197, § 2.

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36-35-3. Resignation of board members--Effective date. Any member of the board may resign by giving written notice to the board and to the Governor. Resignations are effective when delivered to the Governor and the board.

**Source:** SL 2005, ch 206, § 3.

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36-35-4. Selection of officers. The board shall annually elect from its members a president, vice-president, and secretary.

**Source:** SL 2005, ch 206, § 4; SL 2016, ch 197, § 3.

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36-35-5. Meetings of board. The board shall hold at least two meetings per year at a place and time set by the board. The board may hold additional meetings at a time and place set by the president or a majority of the board.

**Source:** SL 2005, ch 206, § 5; SL 2016, ch 197, § 4.

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36-35-6. Quorum--Majority vote. Three board members present at any meeting constitute a quorum. No board action may occur unless approved by a majority vote of the entire board.

**Source:** SL 2005, ch 206, § 6.

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36-35-6.1. Powers of board. The board may:

- (1) Administer, coordinate, and enforce the provisions of this chapter;
- (2) Evaluate the qualifications of applicants for licensure and permits and issue and renew licenses and permits;
- (3) Maintain the names of persons that meet the qualifications for licensure;
- (4) Conduct all disciplinary proceedings under this chapter;
- (5) Maintain a record of each complaint received by the board;
- (6) Establish standards for the safe and qualified practice of massage therapy;
- (7) Report licensing actions and status to relevant state and federal governing bodies as may be required, or as the board deems appropriate; and
- (8) Employ or contract with personnel and enter into contracts pursuant to law to carry out the board's responsibilities.

**Source:** SL 2016, ch 197, § 19.

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36-35-7. Compensation of board members. Board members shall receive a per diem set pursuant to § 4-7-10.4 and expenses at the same rate as other state employees while actually engaged in official duties.

**Source:** SL 2005, ch 206, § 7.

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36-35-8. Display of license--Proof of licensure. Any person engaged in the practice of massage in this state shall conspicuously display a valid license from the board in the licensee's regular place of business. If the licensee is providing massage therapy outside of the licensee's regular place of business, the licensee shall, upon request, produce photo identification and proof of licensure. Failure to comply with this section is a petty offense.

**Source:** SL 2005, ch 206, § 8; SL 2013, ch 184, § 1; SL 2016, ch 197, § 5.

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36-35-9. Use of fees. Any fees collected under this chapter shall be used for the operation of the board and the implementation of this chapter.

**Source:** SL 2005, ch 206, § 9; SL 2013, ch 184, § 2.

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36-35-10. Practice of massage without license or employment of unlicensed person as misdemeanor. Any person who engages in the practice of massage or holds himself or herself out to the public as engaged in the practice of massage without a license issued pursuant to this chapter, or owns, operates or manages a business which knowingly employs or contracts with any unlicensed person to offer or provide massage therapy, is guilty of a Class 1 misdemeanor. The board may bring a civil action to enjoin any violation of this chapter.

**Source:** SL 2005, ch 206, § 10; SL 2013, ch 184, § 3; SL 2016, ch 197, § 6.

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36-35-11. Repealed by SL 2013, ch 184, § 4.

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36-35-12. Application for license--Qualifications--Appeal of denial. The board shall issue a license to engage in the practice of massage to any person who submits an application form and the nonrefundable application fee as approved in § 36-35-17 and who demonstrates the following qualifications:

- (1) Eighteen years of age or older;
- (2) Completion of no less than five hundred hours of training or study in the practice of massage with a facility or instructor recognized by the board;
- (3) Absence of unprofessional conduct;
- (4) Professional liability insurance coverage pursuant to § 36-35-21; and
- (5) Passing score on a nationally recognized competency examination approved by the board in rules promulgated pursuant to chapter 1-26.

The board may refuse to grant a license to any person based on failure to demonstrate the requirements of this section. The board may grant a license, subdivision 36-35-13(1) notwithstanding, if the applicant has been convicted of, or pled guilty to a felony, any crime involving or relating to the practice of massage, or any crime involving dishonesty or moral turpitude and the board determines that the plea or conviction is of a nature or is sufficiently remote in time that the applicant does not constitute a risk to public safety. An applicant may appeal the denial of a license in compliance with chapter 1-26.

**Source:** SL 2005, ch 206, § 12; SL 2007, ch 223, § 1; SL 2013, ch 184, § 5; SL 2015, ch 201, § 1.

36-35-12.1. Temporary permit. Upon application and payment of an application fee not to exceed seventy-five dollars, the board may issue a temporary permit to practice massage therapy to an applicant who has met the requirements of subdivision 36-35-12(1) to (4), inclusive, pending completion and results of the examination required pursuant to subdivision 36-35-12(5), if the applicant intends to practice massage therapy in the state during the time the permit is valid. A temporary permit may be issued no more than twice and is effective for a term of not more than ninety days. A temporary permit automatically expires on the occurrence of the following:

- (1) Issuance of a regular license;
- (2) Failure to pass the licensing examination; or
- (3) Expiration of the term for which the temporary license was issued.

**Source:** SL 2013, ch 184, § 6; SL 2015, ch 201, § 2; SL 2016, ch 197, § 7.

36-35-12.2. Repealed by SL 2016, ch 197, § 8.

36-35-12.3. Expiration of license. A license issued under this chapter is valid until September thirtieth following the date it is issued and automatically expires unless it is renewed.

**Source:** SL 2013, ch 184, § 8; SL 2016, ch 197, § 9.

36-35-13. Unprofessional conduct. For the purposes of this chapter, any of the following acts constitute unprofessional conduct:

- (1) Conviction of or a plea of guilty to any felony, any crime involving or relating to the practice of massage, or any crime involving dishonesty or moral turpitude;
- (2) Providing the board false or misleading information on any application for a license or renewal of a license;
- (3) Willful misconduct or negligence in the practice of massage;
- (4) Exceeding the scope of practice of massage as defined in § 36-35-1;
- (5) Engaging in any lewd or immoral conduct;
- (6) Making fraudulent charges for services;
- (7) Engaging in conduct which endangers the health or welfare of clients or other persons;
- (8) Failure to comply with any provision of this chapter; or
- (9) Engaging in any act that aids, abets, facilitates, or promotes a violation of this chapter.

**Source:** SL 2005, ch 206, § 13; SL 2013, ch 184, § 9; SL 2015, ch 201, § 3; SL 2016, ch 197, § 10.

36-35-14. Repealed by SL 2016, ch 197, § 11.

36-35-15. Applicants licensed in other states. Notwithstanding the provisions of § 36-35-12, the board may issue a license to an applicant licensed to practice massage therapy in another state if the applicant demonstrates the following qualifications:

- (1) Eighteen years of age or older;
- (2) Absence of unprofessional conduct;
- (3) Professional liability insurance pursuant to § 36-35-21;

(4) Verification from the authority that issued the applicant's license indicating the applicant is in good standing and currently licensed to practice; and

(5) Experience and competency in massage indicated by education that substantially complies with subdivision 36-35-12(2) or verification of an active massage therapy practice in the state of licensure in the two years immediately preceding the date of application for licensure.

For the purpose of this section, the term, active massage therapy practice, means the applicant has had at least two hundred hours of patient contact in the preceding two-year period.

**Source:** SL 2005, ch 206, § 15; SL 2013, ch 184, § 10; SL 2016, ch 197, § 12.

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36-35-16. Renewal of license. Any licensee holding a valid license under this chapter may renew that license by making application for renewal, paying the required renewal fee, and providing proof of compliance with the continuing education requirements set by the board. If the board has not received a license renewal application by the expiration date, the board shall notify the licensee within five days that the renewal application has not been received and that the licensee may not practice until the license is renewed. Any person who submits a license renewal application and provides proof of compliance with the continuing education requirements set by the board within thirty days after the expiration date may be granted a license renewal.

**Source:** SL 2005, ch 206, § 16; SL 2011, ch 187, § 2; SL 2013, ch 184, § 11; SL 2016, ch 197, § 13.

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36-35-17. Application and license fees. Any applicant for a license under this chapter shall submit a nonrefundable application fee not to exceed one hundred dollars. Any person who has a license issued or renewed by the board shall submit a license fee in an amount not to exceed sixty-five dollars. Fees shall be set by the board by rule promulgated pursuant to chapter 1-26.

**Source:** SL 2005, ch 206, § 17; SL 2007, ch 223, § 3; SL 2008, ch 191, § 76.

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36-35-18. Duplicate license. The board may issue a duplicate license to a licensee upon request.

**Source:** SL 2005, ch 206, § 18; SL 2008, ch 191, § 77; SL 2013, ch 184, § 12.

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36-35-18.1. Inactive status. The board may place a massage therapy license on inactive status upon submission of an application and payment of the application fee.

**Source:** SL 2007, ch 223, § 5; SL 2016, ch 197, § 14.

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36-35-19. Continuing education requirements. Any person licensed under this chapter shall complete eight hours of continuing education relating to competence in the practice of massage on a biennial basis of a type and from a facility or instructor approved by the board. The required continuing education hours may be obtained by electronic means. The board may waive the continuing education requirement upon proof of illness or hardship.

**Source:** SL 2005, ch 206, § 19; SL 2007, ch 223, § 4; SL 2013, ch 184, § 13.

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36-35-20. Investigation of complaints--Inspections. The board may receive and investigate any complaint filed with the board alleging a violation of this chapter. The board may inspect the place of business of the licensee named in a complaint during normal business hours or upon written notice.

**Source:** SL 2005, ch 206, § 20; SL 2013, ch 184, § 14; SL 2016, ch 197, § 15.

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36-35-21. Professional liability insurance coverage. Any person holding a valid license under this chapter and engaged in the practice of massage therapy shall carry malpractice or professional liability insurance coverage with a company with a certificate of authority from the South Dakota Division of Insurance with limits of no less than two hundred fifty thousand dollars per occurrence. A licensee shall notify the board of any change of carrier occurring after a license or renewal is granted.

**Source:** SL 2005, ch 206, § 21; SL 2013, ch 184, § 15.

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36-35-22. Grounds for cancellation, suspension, or revocation of license--Hearing--Appeal. The board may cancel, suspend, or revoke a license following a contested case hearing in compliance with chapter 1-26 upon satisfactory proof of incompetence, unprofessional conduct, or a violation of any provision of this chapter. The board may waive the requirement of prior notice and

an informal meeting set forth in § 1-26-29 if the licensee presents an immediate threat to the public or has engaged in willful misconduct. Any licensee may appeal the cancellation, suspension, or revocation of a license in compliance with chapter 1-26.

**Source:** SL 2005, ch 206, § 22; SL 2016, ch 197, § 16.

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36-35-23. Reapplication for cancelled, suspended, or revoked license. Any person whose license has been cancelled, suspended, or revoked by the board may not reapply for a license until one year after it was cancelled, suspended, or revoked unless a different time has been set by the board.

**Source:** SL 2005, ch 206, § 23.

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36-35-24. Promulgation of rules. The board may promulgate rules pursuant to chapter 1-26 to establish:

- (1) The form and information required for any license application;
- (2) A list of recognized facilities or instructors who may provide training or instruction required for licensure or continuing education requirements;
- (3) The amount of license fees;
- (4) The procedures for placing a license on inactive status and the procedures to regain active licensure; and
- (5) Approval of national competency examinations.

**Source:** SL 2005, ch 206, § 24; SL 2007, ch 223, § 6; SL 2013, ch 184, § 16; SL 2016, ch 197, § 17.

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36-35-25. Application of chapter. The provisions of this chapter do not apply to any person performing massage for compensation if the massage is done under one of the following circumstances:

- (1) As part of a licensed practice as a physician, physician assistant, chiropractor, nurse, physical therapist, athletic trainer, or other health care profession licensed or certified under title 36;
- (2) As part of a licensed practice pursuant to chapter 36-14 or 36-15, if the licensee is performing within the scope of the licensed practice and the licensee does not hold himself or herself out to be a massage therapist or to be engaged in the practice of massage therapy;
- (3) In furtherance of duties as an employee of the United States;
- (4) As part of a course of study with a facility or instructor recognized and approved by the board to provide training in massage or the provision of such instruction;
- (5) As part of providing a course of instruction or continuing education by a licensed massage therapist from another state or provider preapproved by the board, in the practice of massage therapy on a temporary basis not in excess of ten days per calendar year; or
- (6) Manipulation of the soft tissues of the human body is restricted to the hands, feet, or ears and the person does not hold himself or herself out to be a massage therapist or to be engaged in the practice of massage therapy.

**Source:** SL 2005, ch 206, § 25; SL 2016, ch 197, § 18.

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ADMINISTRATIVE RULES

of

SOUTH DAKOTA

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ARTICLE 20:76  
MESSAGE THERAPY

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**ARTICLE 20:76**

**MASSAGE THERAPY**

Chapter

20:76:01	Applications.
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**CHAPTER 20:76:01**

**APPLICATIONS**

Section

20:76:01:01	Definitions.
20:76:01:02	Application.
20:76:01:03	Notification.
20:76:01:04	Denial.
20:76:01:05	Repealed.
20:76:01:06	Required training.

**20:76:01:01. Definitions.** Terms defined in SDCL chapter 36-35 have the same meaning when used in this article. In addition, terms used in this article mean:

(1) "Applicant," any person seeking initial licensure or renewal of a license with the boardboard;

(2) "Completed application," an application which has all the required documentation necessary to prove an applicant's qualifications for licensure.

**Source:** 33 SDR 50, effective September 21, 2006; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(1).

**Law Implemented:** SDCL 36-35-24.

**20:76:01:02. Application.** An application for licensure, temporary permit, or renewal of a license must be made in writing on a form prescribed by the board. The applicable application fee must be submitted with the application. The application fee is non-refundable. The applicable license fee must also accompany the application. The license fee is refundable if the application is denied or withdrawn.

An application is not complete until all required documentation is received by the board. The executive secretary may return an application for initial licensure or temporary permit that remains uncomplete one year after the date of initial submission of the application. Materials received by the board from a third party may not be returned to the applicant. A returned application shall be considered withdrawn.

An applicant shall verify under the penalties of perjury that all the information submitted on an application by the applicant is true and correct. An applicant who submits an application by use of the internet agrees that submission of the application serves as the applicant's signature and verification of the information of the application. An applicant must notify the board if another state has disciplined the applicant with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a license. The applicant may be required to clarify, expand, or provide additional information to fully evaluate all qualifications. If the applicant does not meet the requirements for licensure, a temporary permit, or renewal of a license, the executive secretary shall write a letter of explanation. The applicant may return the application and ask that it be submitted for board action.

**Source:** 33 SDR 50, effective September 21, 2006; 37 SDR 29, effective August 30, 2010; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(1).

**Law Implemented:** SDCL 36-35-12.

**20:76:01:03. Notification.** The board shall take final action upon any application no later than six months after submission of a completed application to the board. The board shall notify the applicant of its determination in writing. If the application is denied, the board shall notify the applicant of the reason for denial.

**Source:** 33 SDR 50, effective September 21, 2006; 37 SDR 29, effective August 30, 2010; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(1).

**Law Implemented:** SDCL 36-35-24.

**20:76:01:04. Denial.** An application for initial licensure, temporary permit or renewal of a license may be denied for failure to meet the applicable requirements of such license or permit or based on the grounds stated in SDCL 36-35-13. An applicant whose application has been denied is entitled to a contested case hearing pursuant to SDCL chapter 1-26.

**Source:** 33 SDR 50, effective September 21, 2006; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(1).

**Law Implemented:** SDCL 36-35-12, 36-35-13

**20:76:01:05. Expiration.** Repealed.

**Source:** 33 SDR 50, effective September 21, 2006; repealed, 37 SDR 29, effective August 30, 2010.

**20:76:01:06. Required training.** An applicant for licensure as a massage therapist shall provide proof of required training on a form prescribed by the board and completed by the recognized facility where the training was received. Official transcripts evidencing that the applicant has completed the required training shall be provided by the recognized facility. The Revised through July 10, 2017

board may consider other evidence of training if the recognized facility has ceased operations. The required training for licensure includes:

- (1) One hundred twenty-five hours of training in the body's systems and anatomy, physiology, and kinesiology;
  - (2) Two hundred hours of training in massage and bodywork assessment, theory, and application;
  - (3) Forty hours of training in pathology;
  - (4) Ten hours total of training in business and ethics, with a minimum of six hours in ethics;
- and
- (5) One hundred twenty-five hours of additional training in an area or related field that theoretically completes a massage program of study.

Fifty minutes of supervised classroom instruction is equal to one hour of training.

The board may approve an application from an applicant with required training from a combination of two or more recognized facilities. Online training is acceptable to meet the training requirements for licensure. At least 200 hours of hands-on training from a recognized facility must be completed.

The board may recognize qualifying continuing education to fulfill required training for licensure.

**Source:** 34 SDR 332, effective July 9, 2008; 37 SDR 29, effective August 30, 2010; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-12(4), 36-35-24(2).

**Law Implemented:** SDCL 36-35-12.

## CHAPTER 20:76:02

### FEES

Section

- 20:76:02:01 Remittance of fees.
- 20:76:02:02 License fee schedule.

**20:76:02:01. Remittance of fees.** Any fee shall be remitted to the board in the form of a personal check, cashier's check, certified check, or money order made payable to the state of South Dakota. The board may not take any action on any application for licensure, temporary permit, or renewal until the fee is received.

**Source:** 33 SDR 50, effective September 21, 2006; 34 SDR 101, effective October 22, 2007; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-17, 36-35-24.

**Law Implemented:** SDCL 36-35-24.

**20:76:02:02. License fee schedule.** The license fee schedule is as follows:

- (1) Temporary permit fee, \$50;
- (2) Annual license renewal fee, \$45;
- (3) Inactive license fee, \$25;
- (4) Application fee, \$75.

**Source:** 33 SDR 50, effective September 21, 2006; 34 SDR 101, effective October 22, 2007; 38 SDR 105, effective December 8, 2011; SL 2013, ch 184, § 17, effective July 1, 2013.

**General Authority:** SDCL 36-35-17, 36-35-18.1, 36-35-24(3).

**Law Implemented:** SDCL 36-35-17, 36-35-18.1, 36-35-24(3).

## CHAPTER 20:76:03

### CONTINUING EDUCATION REQUIREMENTS

Section

- 20:76:03:01 Definitions.
- 20:76:03:02 Repealed.
- 20:76:03:03 Verification.
- 20:76:03:04 Qualifying activities.
- 20:76:03:05 Record keeping.
- 20:76:03:06 Repealed.
- 20:76:03:07 Continuing education compliance.
- 20:76:03:08 Prior approval of qualifying activities.

**20:76:03:01. Definitions.** Terms used in this chapter mean:

- (1) "Contact hour," a minimum of 50 minutes of presentation or participation;
- (2) "Continuing education cycle," a two year period that begins on October 1 of an even-numbered year and ends on September 30 of the next even-numbered year;
- (3) "Electronic means," educational activities obtained via the internet, such as self-study courses and audio/video tapes, with formal testing and passing scores recorded.

**Source:** 33 SDR 50, effective September 21, 2006; 37 SDR 29, effective August 30, 2010; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(2).

**Law Implemented:** SDCL 36-35-19.

**20:76:03:02. Requirements.** Repealed.

**Source:** 33 SDR 50, effective September 21, 2006; repealed, 34 SDR 101, effective October 22, 2007.

**20:76:03:03. Verification.** A licensee shall complete eight hours of qualifying continuing education in each continuing education cycle. Continuing education required for renewal of a license shall be prorated in six month increments for a licensee granted an initial license during a continuing education cycle. Upon application for license renewal, a licensee shall verify under the penalties of perjury that all continuing education information provided with the application is true

and correct. The licensee must supply sufficient detail to permit audit verification if notified by the board of an audit.

**Source:** 33 SDR 50, effective September 21, 2006; 34 SDR 101, effective October 22, 2007; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(2).

**Law Implemented:** SDCL 36-35-19.

**20:76:03:04. Qualifying activities.** Qualifying continuing education is any course with a clear purpose and objective which maintains, improves, or expands the skills and knowledge relevant to massage therapy of the human body. Qualifying continuing education must meet the definition of massage therapy pursuant to § 36-35-1(3) or be education presented by an approved provider of the National Certification Board for Therapeutic Massage and Bodywork, American Medical Massage Association, or Federation of State Massage Therapy Boards. College courses used to meet continuing education requirements must not replicate courses submitted by the licensee to meet the required licensing coursework. An academic semester credit equals 15 continuing education hours and a quarter credit equals 10 continuing education hours.

Cardiopulmonary resuscitation (CPR) certification from the American Heart Association, the American Red Cross or another course deemed equivalent by the board is qualifying continuing education for up to four hours in each continuing education cycle. In person attendance of a board meeting is qualifying continuing education for up to two hours in each continuing education cycle. No other qualifying continuing education may be repeated in consecutive continuing education cycles.

**Source:** 33 SDR 50, effective September 21, 2006; 37 SDR 29, effective August 30, 2010; 38 SDR 105, effective December 8, 2011; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(2).

**Law Implemented:** SDCL 36-35-19.

**20:76:03:05. Record keeping.** The licensee shall maintain records to support continuing education claimed to renew a license. These records must be maintained for five years after the date of renewal of the license. A licensee shall keep the following records:

- (1) A brochure or flyer showing the type of activity, sponsoring organization, location, duration, instructor's or speaker's name, and continuing education hours earned; and
- (2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.

**Source:** 33 SDR 50, effective September 21, 2006; 34 SDR 101, effective October 22, 2007; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(2).

**Law Implemented:** SDCL 36-35-19.

**20:76:03:06. Audits.** Repealed.

**Source:** 33 SDR 50, effective September 21, 2006; repealed, 34 SDR 101, effective October 22, 2007.

**20:76:03:07. Continuing education compliance.** The board may take into consideration hardship or extenuating circumstances in allowing a licensee to correct deficiencies in continuing education, but the deadline may not be extended more than one year. A licensee's request for an extension to correct deficiencies in continuing education must be made to the board, in writing, before the end of the current continuing education cycle.

**Source:** 33 SDR 50, effective September 21, 2006; 34 SDR 101, effective October 22, 2007; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(2).

**Law Implemented:** SDCL 36-35-19.

**20:76:03:08. Prior approval of qualifying activities.** The board will accept continuing education that meets the definition of massage pursuant to SDCL 36-35-1(3), if presented by:

- (1) An approved provider of the National Certification Board for Therapeutic Massage and Bodywork;
- (2) An approved provider of the American Medical Massage Association;
- (3) An approved provider of the Federation of State Massage Therapy Boards; or
- (4) A facility recognized by the board pursuant to § 20:76:08:01 or § 20:76:08:02.

An organization or presenter other than those listed above may apply for preapproval of a continuing education program. Such application shall be made on a form prescribed by the board. If the proposed continuing education program meets the requirements of 20:76:03:04, the board may issue the organization or presenter an approval number which shall be included on any certificates of completion issued by the organization or presenter. An approved organization or presenter shall provide the board with a list of attendees of an approved program within 30 days of the approved program.

**Source:** 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-24(2).

**Law Implemented:** SDCL 36-35-19.

## CHAPTER 20:76:04

### DISCIPLINARY PROCEEDINGS

Section	
20:76:04:01	Complaints.
20:76:04:02	Complaint procedure.
20:76:04:03	Informal proceedings.
20:76:04:04	Formal proceedings.
20:76:04:05	Contents of a formal board complaint.
20:76:04:06	Repealed.
20:76:04:07	Disqualification.
20:76:04:08	Procedure for formal hearing.
20:76:04:09	Final action by board.
20:76:04:10	Petition for hearing by an aggrieved person.

**20:76:04:01. Complaints.** Any person, including a board member or the executive secretary, claiming that a holder of a license, or an applicant for licensure under SDCL chapter 36-35, has engaged in or is engaged in conduct constituting grounds for disciplinary action as enumerated in SDCL chapter 36-35 may file a written complaint with the board. The board may require the complaining party to file a complaint verified on oath stating the name of the applicant or licensee against whom the complaint is made and setting out full details of the conduct which is alleged to be a violation. Failure to file a written complaint, verified under oath, in the form satisfactory to the board, is a basis to dismiss the complaint. On receipt of a complaint deemed to be in proper form by the board or the executive secretary, the complaint shall be served by mail upon the applicant or licensee complained against and upon any other affected parties, together with a copy of SDCL chapters 36-35 and 1-26.

The applicant or licensee complained against shall respond to the complaint within 20 calendar days after service of the complaint on the applicant or licensee. The response of the applicant or licensee shall be sent to the executive secretary of the board at the board's office. Upon receipt of the response of the applicant or licensee, or upon expiration of the time for the applicant or licensee complained against to respond, the president of the board, considering only the complaint and any response, shall appoint one member of the board who, along with the executive secretary and such other individuals as may be appointed by the president of the board, to act as an investigative committee to determine if the complaint has merit and constitutes grounds for disciplinary action, or is frivolous and should be dismissed. Licensees must notify the board within 30 days if another state has disciplined them with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a license.

**Source:** 33 SDR 50, effective September 21, 2006.

**General Authority:** SDCL 36-35-24(4).

**Law Implemented:** SDCL 36-35-22.

**20:76:04:02. Complaint procedure.** Upon completion of the investigation, the investigating committee shall recommend to the board whether the charges should be dismissed for lack of merit or whether based upon the investigation of the committee there is sufficient basis to proceed with either a formal or an informal hearing or other disposition. The failure of a licensee to comply with the investigation request administered by the board may result in disciplinary action. The board may also petition the court of the county in which the individual licensee resides, and the court may enter an order compelling the compliance or imposing such terms and conditions as the court may deem necessary.

**Source:** 33 SDR 50, effective September 21, 2006.

**General Authority:** SDCL 36-35-24(4).

**Law Implemented:** SDCL 36-35-22.

**20:76:04:03. Informal proceedings.** If the board considers an alleged violation to have merit constituting grounds for disciplinary action, the board, at its sole discretion, with the consent of the licensee, may proceed with informal proceedings and stay formal proceedings pending the outcome of the informal proceedings. The board may conduct informal proceedings with the affected parties to resolve the matter without a formal hearing.

Informal proceedings do not preclude the board from reinstating formal proceedings. An applicant or licensee, prior to accepting a final disposition through an informal proceeding, can reject or decline informal proceedings and elect to proceed with a formal hearing. An applicant or



licensee consenting to an informal proceeding waives all rights to disqualify a board member from participating in a subsequent formal hearing by reason of the board member's participation in the informal proceeding consented to by the applicant or licensee.

The board may accept an assurance of voluntary compliance or a consent order regarding a violation of SDCL chapter 36-35. The assurance or consent order shall be in writing and is subject to the approval of the board. The assurance or consent order may include a statement that the applicant or licensee will not engage in such act or practice in the future and one of the following:

- (1) Stipulation for voluntary payment of any fine or cost, or both, of the investigation; and
- (2) Stipulation for the voluntary payment necessary to restore to any person money or property which may have been acquired by the alleged violator.

The assurance of voluntary compliance may not be considered an admission to a violation for any purpose. The consent of the licensee to a consent order in informal proceedings constitutes an admission of a violation for any purpose. Proof of the failure to comply with an assurance of voluntary compliance or a consent order entitles the board to institute or reinstitute formal proceedings.

The board shall notify in writing any complaining party, the applicant or licensee complained against, and any other affected parties of the results of the informal proceedings and the action taken, if any. The final disposition of an informal proceeding is a public record.

**Source:** 33 SDR 50, effective September 21, 2006.  
**General Authority:** SDCL 36-35-24(4).  
**Law Implemented:** SDCL 36-35-22.

**20:76:04:04. Formal proceedings.** If an alleged violation has merit constituting grounds for disciplinary action, the board may commence formal proceedings. Formal proceedings shall be instituted by a formal board complaint and service of a notice of hearing by mail upon the applicant or licensee complained against.

**Source:** 33 SDR 50, effective September 21, 2006.  
**General Authority:** SDCL 36-35-24(4).  
**Law Implemented:** SDCL 36-35-22.

**20:76:04:05. Contents of a formal board complaint.** The formal board complaint shall include the name of the applicant or licensee complained against, and a statement setting forth the nature of the violations being charged that constitute grounds for disciplinary action.

**Source:** 33 SDR 50, effective September 21, 2006.  
**General Authority:** SDCL 36-35-24(4).  
**Law Implemented:** SDCL 36-35-22.

**20:76:04:06. Answer to formal board complaint.** Repealed.

**Source:** 33 SDR 50, effective September 21, 2006; repealed, 38 SDR 177, effective April 26, 2012.

**20:76:04:07. Disqualification.** If an alleged violation against a licensee is filed by a board member, or if a board member participates in the investigation of a violation by the licensee, that board member is disqualified from sitting at the hearing as a board member and from participating in the decision rendered by the board.

**Source:** 33 SDR 50, effective September 21, 2006.

**General Authority:** SDCL 36-35-24(4).

**Law Implemented:** SDCL 36-35-22.

**20:76:04:08. Procedure for formal hearing.** The following procedure shall be used by the board in conducting formal hearings:

(1) The board shall provide written notice to the applicant or licensee by mail stating the time, place, and date of the formal hearing. The notice shall require the attendance of the applicant or licensee at the hearing. The notice shall be given at least ten days prior to the formal hearing;

(2) A transcript shall be kept of all formal hearings and proceedings;

(3) The board president may conduct the formal proceeding or the board may have a hearing examiner conduct the proceedings in part or in full;

(4) The applicant or licensee appearing before the board at a formal hearing shall appear in person, unless otherwise waived by the board. The applicant or licensee, and legal counsel, may be present during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may examine and cross-examine witnesses, may prevent evidence in support of the party's interest, and may have subpoenas issued to compel attendance of witnesses and production of evidence on the party's behalf.

**Source:** 33 SDR 50, effective September 21, 2006.

**General Authority:** SDCL 36-35-24(4).

**Law Implemented:** SDCL 36-35-22.

**20:76:04:09. Final action by board.** After a formal hearing, the board may decide to dismiss the formal complaint, revoke the registration license of the licensee, suspend the registration license of the licensee, place the licensee on probation, or issue a letter of reprimand to be placed in the file of the applicant or licensee. The board's decision shall be made and entered with notice of the decision given in accordance with the provisions of SDCL 1-26-23 to 1-26-25, inclusive.

**Source:** 33 SDR 50, effective September 21, 2006.

**General Authority:** SDCL 36-35-24(4).

**Law Implemented:** SDCL 36-35-22.

**20:76:04:10. Petition for hearing by an aggrieved person.** In a contested case, as it is defined in SDCL 1-26-1(2), including disciplinary proceedings, a person aggrieved by an action of the board taken without a hearing may, within 30 days following the date of the board action, petition the board for a hearing. The hearing shall be held not later than 60 days following receipt of the petition. Twenty (20) days before the date set by the board for hearing, the board shall serve by mail upon the petitioner and other interested or affected parties a copy of the notice of hearing and a copy of the aggrieved person's petition.

**Source:** 33 SDR 50, effective September 21, 2006.

**General Authority:** SDCL 36-35-24(4).

**Law Implemented:** SDCL 36-35-22.

**CHAPTER 20:76:05**

**MALPRACTICE OR PROFESSIONAL LIABILITY INSURANCE**

Section

20:76:05:01 Minimum limits.

20:76:05:02 Recordkeeping.

**20:76:05:01. Minimum limits.** A licensee shall carry malpractice or professional liability insurance, with a company with a certificate of authority from the South Dakota Division of Insurance, with limits of no less than \$250,000 per occurrence. A licensee shall notify the board of any change of carrier occurring after a license or renewal is granted.

An applicant shall submit the declarations page issued by the applicant's malpractice insurance carrier with any application for licensure, temporary permit or license renewal.

**Source:** 33 SDR 50, effective September 21, 2006; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-21.

**Law Implemented:** SDCL 36-35-12, 36-35-21.

**20:76:05:02. Recordkeeping.** A licensee shall maintain records to verify compliance with malpractice insurance requirements. These records must prove the minimum coverage was in effect during the period the licensee held a license. These records must be maintained for at least five years after the date of the issuance of an initial license or renewal of a license.

**Source:** 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-21.

**Law Implemented:** SDCL 36-35-12(4), 36-35-21.

**CHAPTER 20:76:06**

**INACTIVE LICENSE**

Section

20:76:06:01 Inactive license.

**20:76:06:01. Inactive license.** An active license may be placed on inactive status upon submission of an application and payment of the required fee. An inactive license has no expiration date and can be activated by paying the current license fee and providing proof of at least eight hours of compliant continuing education in the two-year period immediately preceding the activation request.

**Source:** 34 SDR 101, effective October 22, 2007; 37 SDR 29, effective August 30, 2010; 38 SDR 105, effective December 8, 2011; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-18.1, 36-35-24(3).

**Law Implemented:** SDCL 36-35-18.1, 36-35-24(3).

## CHAPTER 20:76:07

### EXAMINATIONS

Section

20:76:07:01 Examination.

**20:76:07:01. Examination.** An applicant for licensure shall provide official evidence of passing an examination provided by one of the following organizations:

- (1) National Certification Board for Therapeutic Massage and Bodywork;
- (2) American Medical Massage Association; or
- (3) Federation of State Massage Therapy Boards.

**Source:** 37 SDR 29, effective August 30, 2010.

**General Authority:** SDCL 36-35-12(7).

**Law Implemented:** SDCL 36-35-12(7).

## CHAPTER 20:76:08

### LICENSING

Section

20:76:08:01 Recognized facilities.

20:76:08:02 Facilities that may be recognized by the board.

20:76:08:03 Repealed.

**20:76:08:01. Recognized facilities.** The board may license an applicant who has completed the training required by § 20:76:01:06 from the following South Dakota facilities:

- (1) Black Hills Health & Education Center;
- (2) Headlines Academy;
- (3) National American University;
- (4) Pam's Massage School;
- (5) South Dakota School of Massage Therapy;
- (6) Sioux Falls Therapeutic Massage & Education Center; and
- (7) Springs Bath House School of Massage Therapy.

**Source:** 38 SDR 177, effective April 26, 2012; SL 2013, ch 184, § 18, effective July 1, 2013; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-12, 36-35-24(2).

Revised through July 10, 2017

**Law Implemented:** SDCL 36-35-12(3), 36-35-24(2).

**20:76:08:02. Facilities that may be recognized by the board.** The board may accept an applicant's training required by § 20:76:01:06 from a facility not recognized pursuant to § 20:76:08:01 if the facility provides official evidence it meets at least one of the following criteria:

(1) The facility is licensed or approved by the state board of massage therapy where that training facility is located; or

(2) The facility is accredited by an accrediting body recognized by the United States Department of Education.

The training that allows an applicant to take a national examination does not require the board to recognize the facility.

**Source:** 38 SDR 177, effective April 26, 2012; 43 SDR 181, effective July 10, 2017.

**General Authority:** SDCL 36-35-12, 36-35-24.

**Law Implemented:** SDCL 36-35-12(3), 36-35-24(2).

**20:76:08:03. Foreign-trained applicants.** Repealed.

**Source:** 38 SDR 177, effective April 26, 2012; 43 SDR 181, effective July 10, 2017.



## South Dakota Board of Massage Therapy

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### **South Dakota Board of Massage Therapy Board Policies & Positions**

Any officer of the Board may sign documents on behalf of the Board. (Board Action March 6, 2006)

The Board shall join the Federation of State Massage Therapy Boards. (Board Action April 18, 2006)

Massage therapy students may perform supervised externships without a license. (Board Position October 14, 2008)

Reiki is not massage therapy. Reiki classes are not continuing education compliant. (Board Position April 16, 2009)

A licensee grandfathered in another state does not meet reciprocity requirements in South Dakota. (Board Action July 25, 2011)

A mailing list of massage therapist licensees, including only name and primary mailing address of a licensee, will be available in a PDF format for one-time use for a fee of \$100. (June 17, 2013)

The Board considers the following information collected of licensees by the Board to be public: Original License Category; License Status; Complaint(s); First Name; Middle Name; Last Name; Maiden Name; Primary Address; Primary City; Primary State; Primary Zip Code; Issue Date; Expiration Date; and Inactive Date. All other information collected by the Board is considered confidential. (Board Action June 17, 2013)

The Board does not accept education from a school that is no longer operational and was not recognized by a state board or recognized accrediting body while in operation. (Board Action March 17, 2014)

The Board does not accept carryover continuing education credits for multiple renewal periods. (Board Acton March 17, 2014)

The Board will allow licensees who receive their original license on June 1<sup>st</sup> or later each year to be issued a license that is valid through September 30 of the following year. (Board Action July 21, 2014)

*Updated 9.25.17*

The Board accepts CPR courses only from American Red Cross and American Heart Association certified instructors and such courses count as 4 hours of continuing education per renewal period. (Board Action November 3, 2014)

The Board authorizes the Executive Secretary to refer complaints alleging unlicensed practice to the state's attorney at the time the complaint is filed with the Board and dismiss the complaint due to lack of jurisdiction. (Board Action March 16, 2015)

Costs associated with a student performing a massage may be recovered when the student performs such services within the scope of an approved massage therapy school curriculum under the supervision of a licensed massage therapist. (Board Action September 21, 2015)

In order to minimize disruption to the Board's meeting, all audio and video recordings of a Board meeting made by a member of the public pursuant to SDCL 1-25-11 shall be made from a place in the meeting room designated by the Board for such public recordings. The place designated by the Board will be located in the meeting room to reasonably allow for audio or video recordings. The Board does not guarantee the quality of the acoustics, sound or lighting in the meeting room or any impact such acoustics, sound or lighting may have on the quality of the recording. No matters properly subject to Executive Session pursuant to SDCL 1-25-2 maybe recorded, in any manner, by a member of the public or a member of the Board. (April 10, 2017)

The President may appoint a non-board member to investigate a complaint when file by or filed against a board member. (Board Action July 11, 2017)

*This is a summary of policies and positions adopted by the South Dakota Board of Massage Therapy on specific issues. This summary is not an exhaustive list of all policies and positions of the South Dakota Board of Massage Therapy and should not be relied on as an exhaustive list. These policies and positions are offered as guidance not as binding authority. The South Dakota Board of Massage Therapy reserves the right to modify or repeal a policy or position at any time.*