

South Dakota State Board of Massage Therapy

Regular Meeting

Zoom Meeting

May 19, 2020

9:00 AM – 12:00PM CST

Zoom Meeting link information

<https://us02web.zoom.us/j/83920595112?pwd=c1drWHZaWnNKaXFhclVkbE1vdWVtZz09>

Proposed Agenda

1. Call to order
2. Approval of Agenda
3. Approval of Minutes of September 25, 2019, January 9, 2020 and February 3, 2020
4. Open Forum
5. COVID-19
6. Statute and Administrative Rule proposed changes
7. Recognized facility approval request by Revive Day Spa
8. Executive Secretary Report
9. Executive Session SDCL 1-25-2(3), contract and complaint
10. FSMTB Annual Meeting – Oct 15-17, 2020 in Chicago
11. Next Meeting
12. Adjournment

**PROPOSED CHANGES TO MASSAGE THERAPY STATUTES RE:
BIENNIAL RENEWAL SCHEDULE**

36-35-12.3. Expiration of license and licensure cycle. The board's licensure cycle runs from October first through September thirtieth. Beginning in 2021, the board may implement a biennial licensure and renewal schedule, pursuant to which applicants or licensees with even-numbered birth years may be granted licensure with renewal required on even-numbered years, and applicants or licensees with odd-numbered birth years may be granted licensure with renewal required on odd-numbered years. The board may utilize an annual licensure and renewal schedule for applicants or licensees as necessary while transitioning to the biennial schedule based on birth year. A license issued under this chapter is valid until September thirtieth following the date it is issued in accordance with the annual or biennial licensure and renewal schedule applicable to the applicant or licensee, and it automatically expires unless it is renewed.

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

**PROPOSED CHANGES TO MASSAGE THERAPY ADMINISTRATIVE RULES
RE: BIENNIAL RENEWAL SCHEDULE**

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

Fees for Annual Licensure and Renewal Schedule:

- (1) Initial annual license fee, \$65;
- (2) Annual license renewal fee, \$65;
- (3) Annual license renewal late fee, \$65.

Fees for Biennial Licensure and Renewal Schedule:

- (1) Initial biennial license fee, \$130;
- (2) Biennial license renewal fee, \$130;
- (3) Biennial license renewal late fee, \$130.

Other Fees:

(1) Temporary permit fee, \$50;

(2) Annual license renewal fee, \$65;

(2~~3~~) Inactive status license fee, \$50~~25~~;

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~~_____~~(34) Application fee, \$100.

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; 45 SDR 83, effective December 18, 2018.

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\(3\)](#), [36-35-16](#).

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, provided that, upon the board's implementation of a biennial licensure and renewal schedule, a "continuing education cycle" will correspond with the biennial licensure and renewal schedule applicable to the specific applicant or licensee—i.e., for applicants or licensees with even-numbered birth years, "continuing education cycle" will mean the two year period beginning on October 1 of an even numbered year and ending on September 30 of the next even-numbered year, and for applicants or licensees with odd-numbered birth years, "continuing education cycle" will mean the two year period beginning on October 1 of an odd numbered year and ending on September 30 of the next odd-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](#).

PROPOSED CHANGES TO MASSAGE THERAPY FEE STATUTE

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-two~~ 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~~ two hundred 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.

PROPOSED CHANGES TO MASSAGE THERAPY ADMINISTRATIVE RULES

20:76:01:02. Application. An application for licensure, temporary permit, inactive status, reactivation, 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, reactivation, or temporary permit that remains incomplete 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, reactivation, or ~~renewal~~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), ~~(4)~~.

Law Implemented: SDCL 36-35-12, 36-35-18.1.

20:76:01:04. Denial. An application for initial licensure, temporary permit, reactivation, 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), ~~(4)~~.

Law Implemented: SDCL 36-35-12, 36-35-13, 36-35-18.1.

20:76:01:07. Changes to Name or Contact Information. All applicants and licensees are responsible for notifying the board of any changes in name or contact information from the information previously submitted to the board. This includes, but is not limited to, all changes in

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email address, home address, or business address. Notification of changes in name or contact information must be made to the board in writing, on a form prescribed by the board.

Source:

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

Law Implemented: SDCL 36-35-12, 36-35-13, 36-35-16,

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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, credit card, online payment, 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, inactive status, reactivation, 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, 36-35-18.1.

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

- (1) Initial annual license fee, \$65;
- ~~(2)~~ Temporary permit fee, \$50;
- ~~(3)~~ Annual license renewal fee, \$65;
- ~~(4)~~ Inactive status license fee, \$5025;
- ~~(5)~~ Application fee, \$100;~~;~~
- ~~(6)~~ Annual license renewal late fee, \$65.

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; 45 SDR 83, effective December 18, 2018.

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), 36-35-16.

20:76:03:04. Qualifying activities. Qualifying continuing ~~education~~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) and must comply with any policies and positions adopted by the board. Continuing education that meets the above requirements and is presented by an approved provider of the following organizations will be accepted by the board: ~~or be education presented by an approved provider of~~ (1) the National Certification Board for Therapeutic Massage and Bodywork; ~~;~~ (2) American Medical Massage Association; ~~;~~ ~~or~~ (3) Federation of State Massage Therapy Boards; ~~;~~ or (4) a facility recognized by the board pursuant to ARSD 20:76:08:01 or 20:76:08:02. 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.

20:76:03:08. 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~~ identified in ARSD 20:76:03:04 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.

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 submitting an application for reactivation of the license on a form prescribed by the board, 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).

South Dakota Board of Massage
Proposed bi-annual renewal schedule

Even Birth Year					
Year	Renewal Fee	CEUs	CEU Period	Expiration Date	Renewal Length
2021	\$ 130	None		9/30/2022	1 year
2022	\$ 130	8 hours	10/1/2020 - 9/30/2022	9/30/2024	2 years
2023	No renewal - odd year				
2024	\$ 130	8 hours	10/1/2022 - 9/30/2024	9/30/2026	2 years
2025	No renewal - odd year				
2026	\$ 130	8 hours	10/01/2024 - 9/30/2026	9/30/2028	2 years
2027	No renewal - odd year				
2028	\$ 130	8 hours	10/1/2026 - 9/30/2028	9/30/2030	2 years
2029	No renewal - odd year				
2030	\$ 130	8 hours	10/01/2028 - 9/30/2030	9/30/2032	2 years

Odd Birth Year					
Year	Renewal Fee	CEUs	CEU Period	Expiration Date	Renewal Length
2021	\$ 130	4 hours	10/1/2020 - 9/30/2021	9/30/2023	2 years
2022	No renewal - even year				
2023	\$ 130	8 hours	10/1/2021 - 9/30/2023	9/30/2025	2 years
2024	No renewal - even year				
2025	\$ 130	8 hours	10/1/2023 - 9/30/2025	9/30/2027	2 years
2026	No renewal - even year				
2027	\$ 130	8 hours	10/1/2025 - 9/30/2027	9/30/2029	2 years
2028	No renewal - even year				
2029	\$ 130	8 hours	10/1/2027 - 9/30/2029	9/30/2031	2 years
2030	No renewal - even year				