

SOUTH DAKOTA BOARD OF MASSAGE THERAPY HEARING MINUTES

Wednesday, May 21, 2025

Via Microsoft Teams

1. Call to Order

President Fallon Helm called the meeting to order at 9:43 am CDT. The meeting was scheduled for 9:00 am, but delayed due to technical difficulties in the Teams application. Members of the public could join the meeting via Microsoft Teams or tele-conferencing.

2. Roll Call

President Fallon Helm read the roll and a quorum was established.

Members Present:

Fallon Helm – via Teams Meeting
Kallyn Reinert – via Teams Meeting
Thor Thonvold – via Teams Meeting
Al Trace -- via Teams Meeting

Others Present:

Kate Boyd, Executive Secretary – via Teams Meeting
Steve Blair Staff Legal Counsel – via Teams Meeting
Kaitlin Sherer, SD Department of Health

Guests Present:

Representative Tesa Schwans, Mai Lin Petrine, Seth Dinkel, Bob Mercer, KELOLAND TV, Bridget Myers, Tonia McGeorge, Shayla Nyberg-Sutton, Rhanda Heller, Peggy Sproat, Carmela Olson, Olawa Rae-Bruhjell

3. Approval of Agenda

Kallyn Reinert made a motion, seconded by Al Trace, to approve the agenda. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

4. Open Forum

Bridget Myers addressed the board. She brought up four different aspects in the massage therapy laws. She is in favor of Title Protection, doesn't want temporary licenses discontinued, thinks inactive licenses should need to be renewed as inactive every five years, and asked for the different between establishment and business licenses.

Rhanda Heller stated that some licensees think the proposed list of fees is a money grab by the board. She also stated she is in favor of Title Protection, questioned legislation for draping of clients, wanted to know the difference between reinstated versus expired licenses. She talked briefly about school and instructor proposed licenses. She thought that business licensure may be cost prohibitive for some licensees, and she asked the board to come up with procedures for better communication with law enforcement.

Representative Tesa Schwans informed the group that she is a first-term legislator and she is a licensed cosmetologist. She encouraged the group to come to the legislature with one message and voice. Whoever will be testifying on behalf of the board in committee meetings needs to

have a clear message. She said she is willing to assist with massage therapy legislation in 2026 and suggested that Senator Tom Pischke may be willing to sponsor the legislation in the Senate.

5. Approval of Draft Meeting Minutes (January 22, 2025, March 18, 2025, April 8, 2025)

Al Trace made a motion, seconded by Thor Thonvold, to approve the draft Minutes of the April 23, 2025 meeting. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

6. Out-of-State Applicants Seeking Approval with Work Experience – SDCL 36-35-15(5)

The meeting packets included the verbiage of SDCL 36-35-15(5). Also included was a draft form for the use of out-of-state applicants who are seeking approval of their application thru this law that allows applicants to provide proof of a minimum of 200 hours of hands-on work experience in the past two years while licensed in another state.

The board reviewed the draft form and wanted it modified to include out-of-state applicants that are self employed and to provide proof in the way of an IRS tax return or sales tax return.

Executive Secretary Kate Boyd also asked the Board to go on record if it is acceptable for the Executive Secretary to process the application and issue licenses for applicants who are seeking a South Dakota license under the two year/200 hours of hands-on experience. If the board wants to review each of these applications, it will delay issuance of the license due to the fact that the board only meets a few times a year. She stated that the Board needs to make that decision.

Kallyn Reinert made a motion, seconded by Thor Thonvold, to approve the Work Experience Affidavit form with the addition of someone to state there are self-employed and for them to be guided to included proof of the hours; secondly, the Executive Secretary is authorized to review the Work Experience Affidavit and supporting documentation and move forward with processing and issuing a license if everything is in order. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

7. Proposed Legislation for 2026

The meeting packets had included a copy of the South Dakota massage therapy laws. Proposed additions were underscored and deletions of language with a ~~strike thru~~. President Fallon Helm thanked everyone who has provided input on needed law changes. She reminded everyone that the changes are simply suggestions and that the Board can delete any of the changes or request further changes. We will need to draft a variety of bills, because the legislature does not allow bills that deal with a variety of subjects.

The Board would need to provide guidance on which items they would like to see draft bills for their consideration at the July 23, 2025 meeting. Changes can still be made at the July meeting before any votes are taken. In early August, the draft bills, as proposed and approved by the Board at the July meeting, need to be submitted to the Department of Health for their internal review and comment. There may be some bills proposed by the Board that will require revision, or we may not be able to move forward with some of the bills for the 2026 session.

The Board spent considerable time reviewing the proposed changes. Some of the changes are merely changes in working and do not significantly change the law. The major changes include:

36-35-1 Definitions: Adding massage therapy schools, establishment licenses, instructors, and students.

36-35-___ Prohibited areas of the body. This would be a new law that will define what areas of the body are prohibited and documentation of certain areas the client requests.

36-35-___ Title Protection. New law that will require individuals licensed as a massage therapist or massage therapy establishment to clearly not that they are licensed. Individuals not licensed by the Board cannot use language or insignia implying directly or indirectly that massage therapy is provided.

There was discussion about advertising and what is required. Board member Kallyn Reinert will provide input on advertising. The FSMTB Model Practice Act will also be reviewed to develop appropriate working with regard to advertising.

36-35-___ Fee Structure. The current laws do not have fees all listed in one place. This would remove fee references in other laws and put them altogether. While the list looks extensive, it included new areas of licensure and fees for some things that are currently provided free of charge. By law the maximum amount of each fee is set. By adopting administrative rules, the Board sets the actual fees that will be charged and cannot exceed the dollar amount stated in law. The Board directed to add in a Student permit fee. Currently the proposed fee amounts are not finalized. Research continues so that we can approach the legislature with justification for the various fees.

36-35-12. Application for license—Qualifications—Appeal of denial. The wording was changed to put the burden on an applicant to provide the required evidence that they meet the qualifications instead of the current wording that states, “the board shall.”

The Board also requested that we raise the education requirement from 500 hours to 650 hours as the Board wanted to pursue legislatively in 2025, but the bill was not approved for submission to the legislature.

36-35-___ Massage establishment licenses. This would be a new law to require licensing for massage establishments. It was pointed out that we should consider only requiring this for brick and mortar establishments with two or more massage therapists. Updated wording will be included in the draft legislation.

36-35-12.1. Temporary permit. The Board was in favor of eliminating temporary permits. Applicants can take the MBLEX while they are still enrolled in school. If they fail, they can retake the exam. The 30-day wait period to retake the exam has been removed. Historically temporary permits were issued because it often took up to six months to take some of the national certification examinations.

36-35-___ Expired licenses—Application for a new license from a prior licensee. Expired licenses cannot be renewed or reinstated. An applicant for a new license does not need to have any continuing education. This would require individuals previously licensed in South Dakota to submit proof of 8 hours of board approved continuing education.

36-35-___ License required for school of massage therapy—Requirements for license. This new law will implement licenses for massage therapy schools. The board will review and approve school licenses.

36-35-___ Instructor license to teach to teach—Application—Areas of Instruction—Exceptions—Promulgation of rules. This new law would require instructors to be licensed as a massage therapist and hold an instructor license as well. Individuals currently working as instructors for at least one year prior to July 1, 2026 will be grandfathered in as an instructor, provided they are licensed massage therapists in South Dakota. This law further states that a non-licensed individual, such as someone with an associates, bachelor, or advanced degree in a science-related field can teach anatomy, physiology, pathology, business, and ethics.

36-35-16. Renewal of license. The Board requested that the thirty-day grace period for renewal after the expiration date to increased to 90 days, with a late penalty that will increase every 30 days. After ninety days, the license is expired and cannot be renewed. The individual will be required to apply as a new applicant.

36-35-18.1. Inactive status. The Board wants to only allow a licensee to place their license in inactive status for a maximum of five years and pay the applicable inactive status fee as established by the Board in administrative rule.

36-35-24. Promulgation of rules. Several additional subjects are proposed to be added to the law for new areas of licensure, such as schools, instructors, student permits, establishments, and safety and infection control standards.

Kallyn Reinert moved, seconded by Al Trace, to move forward with the drafting of legislation as reviewed, with suggested changes or additions from the Board. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

8. Next Meeting

The next regularly scheduled meeting will be held on Wednesday, July 23, 2025 at 9:00 am. At that meeting the Board will need to review draft legislation, make any changes or deletions, and approve sending the draft bills to the Department of Health for review and approval.

9. Adjourn

Thor Thonvold made a motion, seconded by Kallyn Reinert to adjourn. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

The meeting was adjourned at 12:02 pm.

Respectfully submitted,

Executive Secretary Kate Boyd and Secretary Thor Thonvold