

**MEETING AGENDA
SOUTH DAKOTA BOARD OF MASSAGE THERAPY**

Wednesday, May 21, 2025

9:00 am CDT

The meeting will be held via Microsoft Teams

Click here to join the meeting:

[Join Teams Meeting](#)

Or Call: 1-605-679-7263, ID 278 006 025#

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Open Forum
5. Approval of the Draft Minutes April 23, 2025 Meeting
6. Out-of-State Applicants Seeking Approval with Work Experience -- SDCL 36-35-15(5)
7. Proposed Legislation for 2026
8. Next Meeting – July 23, 2025 – Proposed Agenda Items
9. Adjourn

SOUTH DAKOTA BOARD OF MASSAGE THERAPY HEARING MINUTES

Wednesday, April 23, 2025

Via Microsoft Teams

1. Call to Order

President Fallon Helm called the meeting to order at 10:00 am CDT. 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
Tamara Lee, DOH Attorney – via Teams Meeting
Kaitlin Sherer, SD Department of Health

Guests Present:

Mai Lin Petrine, Kevin Sneed, Bob Mercer, KELOLAND TV
Tara Bartekoske, Traiton Peck, Seth Dinkel, Shayla Nyberg-Sutton, Sierra Tschetter, Ally Allen, Andrew Leitheiser, Courtnie Weinheimer, Daniel Faber, David McGaugh, Janerra Wipt, Julianna Nielson-Dick, Madison Smith, Shana Bakker, Tana Rosenau, Tayla Nagel, Tatyana Woodall, Bridget Myers, Kendra Ringstmeyer, Rhanda Heller, Carmela Olson, Olawa Rae-Bruhjell

3. Approval of Agenda

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

4. Open Forum

Bridget Myers commented on the Executive Secretary report noting we need to deal with applicants whose schools have closed since they completed their education and offered to be part of a committee to come up with solutions for the board's consideration. She also supported agenda item 9, seeking board approval to allow the Investigations Committee comprised of a board member, executive secretary, and board attorney to dismiss cases when there is no probable cause or jurisdiction.

Rhanda Heller stated that she is in favor of bi-annual license renewal.

Thor Thonvold stated that the board needs to pursue fee increases, as expenses have increased over the years, with the most recent license fee being approved by the legislature in

2007. He noted that the legislature last year increased the per diem rate for board and commission members from \$60 per day to \$166 per day.

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

Kallyn Reinert noted that her name was spelled incorrectly in the last paragraph of the April 8, 2025 meeting minutes. Kallyn Reinert made a motion, seconded by Thor Thonvold, to correct the misspelling in the April 8, 2025 minutes and approve the January 22, March 18, and April 8, 2025 meeting minutes. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

6. Executive Secretary Report

Executive Secretary Kate Boyd reported the following:

a. Financial Report for the Month Ending March 31, 2025 – The available funds for the remainder of the fiscal year are \$26,570.55, and the cash center balance is \$13,567.80. She stated that we will not spend the remainder of the available funds, and that the cash center balance is decreasing. The board needs to pursue fee increases.

b. On-line Applications – Due to the lack of funds for the necessary computer programming, the board is not in the position to pursue on-line applications.

c. FSMTB Executive Summit – Due to a health situation, she was, unfortunately, not able to attend the FSMTB Executive Summit held in early April in Arizona.

d. Verification of Education when an Applicant's School has Closed – Closed massage therapy schools create an issue for applicants seeking licensure because the applicant cannot access the required Verification of Education and official transcript. She suggested the board try to find a solution.

e. Acceptance of emailed Verification of Education and Transcripts from Schools – The board was asked to authorize acceptance of the Verification of Education Form and official transcripts from schools. Thor Thonvold made a motion, seconded by Kallyn Reinert, to authorize the Executive Secretary to accept emailed Verification of Education forms and official transcripts from schools. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

7. Federal Apprenticeships Presentation

Tara Bartekoske, Traiton Peck, and Seth Dinkel from the South Dakota Department of Labor & Regulation made a presentation on federal apprenticeships. The apprenticeship program requires 2000 hours of education. There is some funding for apprenticeships to help develop programs, and financial support for businesses in the form of partial wage reimbursement. They also mentioned some of the drawbacks, including requiring two people in a room at all times, the apprentice and mentor. Massage Therapy schools may feel threatened and it requires involvement from both the South Dakota Department of Labor & Regulation and Department of Health.

8. Records Retention Manual – Executive Secretary Kate Boyd referred the board to proposed updates to the Records Retention Manual. In some cases, the current manual requires maintaining records for fifty years. The board meeting packet contained a copy of the current language with proposed changes. Upon approval by the Board, the updated language will be forward to the Office of Records Management for final approval by the Records Destruction Board.

Al Trace made a motion, seconded by Thor Thonvold, to approve the proposed changes to the Records Retention Manual. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

9. Complaint Process

The Board was asked to adopt a policy to allow the Investigative Committee, comprised of the appointed board member, Executive Secretary, and board attorney to dismiss complaints when there is no probable cause or when the board does not have jurisdiction.

Thor Thonvold made a motion, seconded by Kallyn Reinert, to amend the current policy on complaints to include the following language: “The investigative committee is authorized to dismiss a complaint for lack of jurisdiction or probable cause pursuant to SDCL 36-1C-4. Any dismissal of a complaint by the investigative committee must be reported to the Board at its next scheduled meeting or within 30 days, whichever is shorter.” **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

10. Policy for Conversion of Credit Hours to Clock Hours for Massage Therapy Education

The Board reviewed a draft policy regarding the conversion of credit hours to clock hours. The FSMTB had recently clarified that acceptable standards are that one credit hour is considered to equal twenty-nine clock hours.

It was Al Trace made a motion, seconded by Kallyn Reinert, to adopt a new policy to add a new section as follows: “Education – For the purpose of calculating training or study hours to determine compliance with established application requirements, one (1) credit hour is considered to equal twenty-nine (29) clock hours.” **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

11. Report of Round-Table Discussions Regarding Possible Legislation for 2026

President Fallon Helm reported on the activities of the round-table meeting that have been held bi-weekly since December. She reviewed the thirteen issues that the round-table members have identified, with those issues being placed in categories that include Schools and Education, Establishments and Businesses, Process and Operations, and General. Among the high priorities are: (1) Approving and licensing schools; Licensing instructors; Establishing Business licenses; Fee Increases; and Streamlining the complaint process. The Board will need to provide guidance to the staff for the issues that they would like to have drafted for 2026 legislation. The next regularly scheduled meeting is July 23, 2025. The Board will need to provide that direction prior to July, because at the July 23, 2025 meeting they will need to give final approval of the draft legislation to be sent to the Department of Health for their review. The

Board agreed to meet on Wednesday, May 21, 2025 at 9:00 am for purposes of discussing legislation.

12. Executive Session –Disciplinary Action Cases 2024-003-004-005-006

Thor Thonvold made a motion, seconded by Kallyn Reinert to go into executive session to discuss disciplinary action cases 2024-003-004-005-006. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Thonvold yea; Trace yea)

Executive Session began at 10:10 am and ended at 10:41 am.

Kallyn Reinert made a motion, seconded by Al Trace, that if a stipulation to resolve cases 2024-003-004-005-006 is signed by 5:00 pm, Thursday, April 24, 2025, with the changes discussed in executive session, the Board authorizes President Fallon Helm to sign the stipulation on behalf of the Board. **MOTION PASSED.** Roll Call Vote (Helm yea; Reinert yea; Trace yea; Thonvold abstain)

13. Next Meeting

The Board scheduled a meeting for May 21, 2025 at 9:00 am via Teams to review legislation options.

The next regularly scheduled meeting will be held on Wednesday, July 23, 2025 at 9:00 am.

14. 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 hearing was adjourned at 2:31 pm.

Respectfully submitted,

Executive Secretary Kate Boyd and Secretary Thor Thonvold

AGENDA ITEM #6

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

As shown below, SDCL 36-35-15 allows an out-of-state applicant to provide work experience to apply for a South Dakota massage therapy license if the school where they received their massage therapy education is no longer in operation. You will note that the applicant must still comply with SDCL 36-35-12. Application for license--Qualifications--Appeal of denial.

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.

Work Experience Affidavit

The following page is a draft Work Experience Affidavit that an out-of-state applicant can use to verify their active massage therapy practice in the state of that they are currently licensed as a massage therapist. I am requesting that the Board approve this document.

Review of Work Experience Affidavit

I request that the Board adopt a policy to allow the Executive Secretary to review the work experience affidavit and proceed with processing the application for licensure if everything is in order. The alternative would be for the Board to review all such applications. This will delay applicants becoming licensed since the Board only meets 4-6 times a year.

SOUTH DAKOTA DEPARTMENT OF HEALTH
South Dakota Board of Massage Therapy

1601 N Harrison Ave Ste 6, Pierre SD 57501
Phone: 605-295-8590 Email: kate.boyd@state.sd.us

OUT-OF-STATE WORK EXPERIENCE AFFIDAVIT

PLEASE BE ADVISED THAT IN SOUTH DAKOTA SUPPLYING FALSE INFORMATION ON THIS FORM THAT BECOMES PART OF AN APPLICATION IS PUNISHABLE BY LAW.

This Affidavit is provided to out-of-state applicants whose massage therapy school is no longer in operation. SDCL 36-35-15 allows the acceptance of an active massage therapy practice in the state of licensure in the two years immediately preceding the data of application for licensure. 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. Applicant must have an active license in good standing from another state.

Complete, sign, and mail this Affidavit with your application for a South Dakota massage therapy license. Contact the Board of Massage Therapy for further information.

Applicant Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

State where currently licensed: _____

License Number: _____

Name of Spa or Establishment where you worked: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

_____ NUMBER OF HOURS WORKED AS A MASSAGE THERAPIST IN IMMEDIATE TWO YEARS PRIOR TO
APPLYING FOR A SOUTH DAKOTA LICENSE

I declare and affirm under the penalties of perjury that this information, to the best of my knowledge and belief is in all things true and correct.

Signed: _____ **Date:** _____

Agenda Item 7 – Proposed Legislation for 2026

President Fallon Helm and Executive Secretary Kate Boyd met with Department of Health leadership on April 24, 2025. Those representing the DOH were Secretary Melissa Magstadt, Deputy Secretary Lynne Valenti, and board liaison Kaitlin Sherer. Among other things, we reviewed the Round-Table meetings that have taken place since December, 2024 to identify possible issues that should be dealt with legislatively. The guidance we received was to develop a draft legislative bill package for consideration, instead of identifying just the top priorities. We probably won't be allowed to proceed with all the bills we identify. State agency proposed legislation goes thru a review and approval process.

The following pages contain the current massage therapy laws. Additions are shown with an underscore and deletions with a ~~strike-thru~~. This document is not in bill format and will require a series of legislative bills. This is a working document for the Board to provide guidance at the May 21, 2025 meeting of which issues they would like to have drafted into bill form. The Board will then need to give approval to the drafted legislative bills at the July 23, 2025 meeting. The next step after that will be to submit the bills for DOH review. We will be notified sometime in the Fall of the bills that we can proceed with.

You will note that the fee structure does not have fees listed yet. More time needs to be spent reviewing our revenue shortfall, and an estimate of the amount of funds that are needed to update the database and outstanding expenses. The fees listed in law will not represent the actual fees. Laws set a cap for the fees, and then the current fees are set in administrative rule.

CHAPTER 36-35 MESSAGE THERAPISTS

NOTE: TABLE OF CONTENTS WILL NEED TO BE UPDATED

<u>36-35-1</u>	Definitions.
<u>36-35-2</u>	Appointment of board members--Terms--Vacancy.
<u>36-35-3</u>	Resignation of board members--Effective date.
<u>36-35-4</u>	Selection of officers.
<u>36-35-5</u>	Meetings of board.
<u>36-35-6</u>	Quorum--Majority vote.
<u>36-35-6.1</u>	Powers of board.
<u>36-35-7</u>	Compensation of board members.
<u>36-35-8</u>	Display of license--Proof of licensure.
<u>36-35-9</u>	Use of fees.
<u>36-35-10</u>	Practice of massage without license or employment of unlicensed person as misdemeanor.
<u>36-35-11</u>	<u>36-35-11</u> . Repealed by SL 2013, ch 184, § 4.
<u>36-35-12</u>	Application for license--Qualifications--Appeal of denial.
<u>36-35-12.1</u>	Temporary permit.
<u>36-35-12.2</u>	<u>36-35-12.2</u> . Repealed by SL 2016, ch 197, § 8.
<u>36-35-12.3</u>	Expiration of license.
<u>36-35-13</u>	Unprofessional conduct.
<u>36-35-14</u>	<u>36-35-14</u> . Repealed by SL 2016, ch 197, § 11.
<u>36-35-15</u>	Applicants licensed in other states.
<u>36-35-16</u>	Renewal of license.
<u>36-35-17</u>	Application and license fees.
<u>36-35-18</u>	Duplicate license.
<u>36-35-18.1</u>	Inactive status.
<u>36-35-19</u>	Continuing education requirements.
<u>36-35-20</u>	Investigation of complaints--Inspections.
<u>36-35-21</u>	Professional liability insurance coverage.
<u>36-35-22</u>	Grounds for cancellation, suspension, or revocation of license--Hearing--Appeal.
<u>36-35-23</u>	Reapplication for cancelled, suspended, or revoked license.
<u>36-35-24</u>	Promulgation of rules.
<u>36-35-25</u>	Application of chapter.

36-35-1. Definitions.

Terms in this chapter mean:

- (1) "Board," the Board of Massage Therapy;
- (2) "**Licensee Licensed massage therapist (LMT)**," 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 human 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.

(5) "South Dakota massage therapy school" means an approved and licensed facility that meets and follows the required educational standards as established in SDCL 36-35-_____ and all pertinent rules established by the Board.

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

36-35-_____. Prohibited areas of the body.

Massage Therapy must be provided in a way that ensures the safety, comfort, and privacy of the client and therapist. Clients receiving a massage must be draped or dressed to assure that the pubic area and genitals are not exposed. A licensee who engages in the practice of massage therapy of the anus and genitalia is subject to disciplinary action, including suspension or revocation of license.

The breast of a client may be treated under the following circumstances:

(1) The massage of the breasts is for therapeutic and medical purposes including, without limitation, the reduction of scar tissue following a surgery on the breast, release of myofascial binding, or improving lymphatic flow;

(2) The massage therapist has received continuing education as determined by the board in administrative rule.

(3) there is a valid request from the client, the valid prescription is presented, or there is a referral from a qualified medical professional.

(4) A client's breast may not be exposed without first having obtained prior written, signed consent.

(5) A written description and explanation is given to the client before the massage begins and permission granted again before uncovering the breast.

Source:

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.

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.

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.

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.

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.

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.

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.

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.

36-35 Title Protection.

No person or entity shall use the words Massage Therapy, Massage Therapist, massage, or licensed massage, or the acronym “LMT,” “MT” or any other words, abbreviations or insignia indicating or implying, directly or indirectly, that Massage Therapy is provided, or supplied, unless such persons are licensed pursuant to this Act.

(1) A Massage Therapist must conspicuously display the license to practice Massage Therapy and must use the acronym “LMT” to designate licensure under this Act.

(2) An establishment employing or contracting with persons licensed under this Article/Chapter may advertise on behalf of those persons.

Source:

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.

36-35-9.1. Fee structure.

The fees promulgated in rules by the board pursuant to chapter 1-26 for all applications, licenses, permits, and renewals, duplicate licenses, and late penalties required by this chapter may not exceed the following maximums:

- (1) Application fee for a massage therapist license, _____ dollars;
- (2) Initial license and renewal fee for a massage therapist license, _____ dollars;
- (3) Inactive license application, _____ dollars;
- (4) Application to reinstate inactive license, _____ dollars;
- (5) Business establishment initial license, _____ dollars;
- (6) Business establishment renewal license, _____ dollars;
- (7) School initial license fee, and renewal fee, _____ dollars;
- (8) Instructor application fee, _____ dollars
- (9) Instructor license and renewal fee, _____ dollars
- (10) Late Renewal fee, _____ dollars
- (11) Verification of license fee, _____ dollars
- (12) Duplicate or replacement license fee, _____ dollars
- (13) For verification of a license issued under this chapter for a South Dakota licensee to obtain licensure in another state, or furnishing of other documents to another state or school, _____ dollars;
- (14) List of active licensees, _____ dollars

Source:

36-35-10. Practice of massage without license or employment of unlicensed person as misdemeanor.

Any person or entity 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.

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

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:~~

To obtain a license to practice massage therapy, an applicant for initial licensure must provide evidence satisfactory to the board that the applicant:

- (1) Has submitted a completed application in the form prescribed by the Board, along with any required supporting documentation;
- (2) Is at least ~~Eighteen~~ years of age ~~or older~~;
- (2) ~~Completion~~ Has completed an approved massage therapy program 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- Massage establishment licenses.

Massage establishments must be licensed by the board. To obtain a license as a massage establishment, an applicant must submit to the board:

- (1) A completed application on a form prescribed by the board, along with any required supporting documentation;
- (2) Payment of all required fees;
- (3) Evidence of property damage and bodily injury liability insurance coverage in the name of the owner or, if the establishment is operated under a business name, in the name of both the owner and the business;
- (4) The board may conduct a pre-licensing inspection of the proposed massage establishment to determine whether the establishment may be licensed.

The board may adopt administrative rules regulating massage establishments.

Source:

36-35-12.1. Temporary permit.

~~Upon application and payment of an application fee, 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- Reinstatement of expired licenses.

~~An applicant for licensure who has previously been licensed as a massage therapist in South Dakota must comply with § 36-35-12. Additionally, the applicant must submit proof of 8 hours of board approved continuing education.~~

Source:

36-35- . License required for school of massage therapy--Requirements for license.

~~No person or entity may operate a Massage Therapy School unless that person or entity is licensed as a school by the board. To obtain a license to operate a Massage Therapy School, the applicant for initial licensure must provide evidence satisfactory to the Board that the Applicant:~~

- (1) Has submitted a completed application and all required supporting documentation;
- (2) Has paid all fees;
- (3) Has not had any disciplinary or adverse action by another state licensing board in this State or another massage therapy licensing board in another state or local unit of government;
- (4) Has submitted the massage therapy program curriculum that is a minimum of 500 clock hours or equivalent credit hours in the topic/courses as determined by the Board in rule;
- (5) Meets all requirements as established by the Board in rule.

Source:

36-35- . Instructor license to teach--Application--Areas of Instruction—Exceptions--Promulgation of rules.

Instructors for massage therapy schools/programs must be licensed by the Board. To obtain a license to instruct in a massage therapy school or program, the applicant must provide evidence satisfactory to the Board that the applicant:

- (1) Possesses the qualifications required by § 36-35-12;
- (2) Holds a valid South Dakota massage therapy license;
- (3) Has paid the required instructor application and licensing fee;
- (4) complied with any instructor education as prescribed in administrative rule ARSD 20:76: or has at least one year of teaching experience as a licensed massage therapy instructor from another state;
- (5) Individuals 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;
- (6) Only licensed massage therapy instructors may teach massage therapy practice and technique.
- (5) An individual does not have to be a licensed massage therapist or instructor to teach anatomy and physiology. Verification of education must be submitted stating that the individual has an associate.

bachelor, or advanced degree in a science-related field from a college, university, or other institution of higher learning.

(6) The board may promulgate rules, pursuant to chapter 1-36, to establish education and experience requirements for a person to serve as a substitute instructor.

Source:

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.~~ Licenses must be renewed; failure to renew a license and continue practicing with an expired license is unprofessional conduct and may be subject to discipline by the Board.

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** provides evidence satisfactory to the Board that the Applicant **the following qualifications:**

- (1) **Is** ~~Is~~ eighteen years of age or older;
- (2) Absence of unprofessional conduct;
- (3) **Has** ~~Has~~ 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.

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. 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 within thirty days after the expiration date and provides proof of compliance with the continuing education requirements set by the board may be granted a license renewal. ~~within thirty days after the expiration date may be granted a license renewal.~~ The board may establish a late fee.

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

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~~ set by the board. 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~~ set by the board. 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.

36-35-18. Duplicate license.

The board may issue a duplicate license to a licensee upon request and set a fee for duplicate licenses.

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

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.

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.

36-35-20. Investigation of complaints--Inspections.

The board shall receive and investigate any complaint filed with the board alleging a violation of this chapter pursuant to the procedures set forth in chapter 36-1C. 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; SL 2021, ch 168, § 45.

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.

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.

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.

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; :
- (6) Approval and licensing of massage therapy schools;
- (7) Approval, licensing and, and required credential of massage therapy instructors; and
- (8) Approval and licensing of massage establishments; and
- (9) Safety and infection control standards for licensees, business establishments, and schools.

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

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.