

MEETING AGENDA
SOUTH DAKOTA BOARD OF MASSAGE THERAPY

Wednesday, August 6, 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 & Introduction of New Board Member
3. Approval of Agenda
4. Open Forum
5. Approval of the Draft Minutes (May 21, 2025)
6. Executive Secretary Report
 - a. Financial Report for the Month and Year Ending June 30, 2025
 - b. South Dakota Open Meeting Laws
 - c. FSMTB Annual Meeting Registration
 - d. Proposed Amendment to Board Policy Regarding Reporting of Unlicensed Practitioners
7. School License Sale/Transfer
8. Draft Legislative Bill
9. Next Meeting – November 19, 2025 -- Proposed Agenda Items
10. Adjourn

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 difference 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 (April 23, 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

BUDGET UNIT 09211

 AVAILABLE FUNDS
 AS OF: 06/30/2025
 FY YEAR REMAINING: 0.0%
 PAY DAYS REMAINING: 0

PAGE 1,665

BUDGET UNIT NAME BOARD OF MASSAGE THERAPY - INFO

DATE 07/11/2025

COMP

ORIGINAL
APPROPRIATIONAPPROPRIATION
TRANSFERSYEAR-TO-DATE
COMMITMENTSYEAR-TO-DATE
EXPENDITURESAVAILABLE
APPROPRIATIONSCASH
BALANCE

6503-I	128,763.00	18,175.00	0.00	97,627.08	49,310.92	5,400.52-
BUDGETED TOT	128,763.00	18,175.00	0.00	97,627.08	49,310.92	
ALL COMP TOT	128,763.00	18,175.00	0.00	97,627.08	49,310.92	
TOTAL BUDGETED :						

OBJECT OF
EXPENDITUREAMOUNT
BUDGETEDCOMMITMENTS
YEAR-TO-DATEEXPENDITURES
MONTHLY
YEAR-TO-DATEBUDGET
AVAILABLEPCT
AVL

5101	EMPLOYEE SALARIES	50,019.00	0.00	0.00	9,642.00	40,377.00	80.7
5102	EMPLOYEE BENEFITS	9,147.00	0.00	0.00	737.62	8,409.38	91.9
5203	TRAVEL	3,371.00	0.00	0.00	0.00	3,371.00	100.0
5204	CONTRACTUAL SVCS	81,401.00	0.00	0.00	85,185.28	3,784.28-	0.0
5205	SUPPLIES & MATRLS	2,700.00	0.00	0.00	2,062.18	637.82	23.6
5207	CAPITAL OUTLAY	300.00	0.00	0.00	0.00	300.00	100.0
TOTALS		146,938.00	0.00	0.00	97,627.08	49,310.92	33.6

BREAKOUT BY COMPANY:

COMPANY 6503-I PROFESSIONAL & LICENSING BOARDS

5101000	EMPLOYEE SALARIES	50,019.00	0.00	0.00	9,642.00	40,377.00	80.7
5102000	EMPLOYEE BENEFITS	9,147.00	0.00	0.00	737.62	8,409.38	91.9
5203000	TRAVEL	3,371.00	0.00	0.00	0.00	3,371.00	100.0
5204000	CONTRACTUAL SVCS	81,401.00	0.00	0.00	85,185.28	3,784.28-	0.0
5205000	SUPPLIES & MATRLS	2,700.00	0.00	0.00	2,062.18	637.82	23.6
5207000	CAPITAL OUTLAY	300.00	0.00	0.00	0.00	300.00	100.0
PS SUBTOTALS		59,166.00	0.00	0.00	10,379.62	48,786.38	82.5
OE SUBTOTALS		87,772.00	0.00	0.00	87,247.46	524.54	0.6
COMPANY 6503-I TOT		146,938.00	0.00	0.00	97,627.08	49,310.92	33.6

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 06/30/2025AGENCY: 09 HEALTH
BUDGET UNIT: 09211 BOARD OF MASSAGE THERAPY - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100061840	1140000	5,400.52	CR	BOARD OF MASSAGE THERAPY
COMPANY/SOURCE TOTAL 6503 618			5,400.52	CR *	
COMP/BUDG UNIT TOTAL 6503 09211			5,400.52	CR **	
BUDGET UNIT TOTAL 09211			~ 5,400.52	CR ***	

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2025

AGENCY	BUDGET UNIT	CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
09	HEALTH	09211	BOARD OF MASSAGE THERAPY - INFO				
COMPANY NO	6503						
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS						
092110061840	6503	4293101			RENEWAL FEES	2,105.00-	57,785.00
092110061840	6503	4293102			INACTIVE FEES	25.00	1,025.00
092110061840	6503	4293103			TEMPORARY FEES	.00	450.00
092110061840	6503	4293104			REACTIVATION FEE	130.00	585.00
092110061840	6503	4293106			APPLICATION FEES	1,300.00	7,200.00
092110061840	6503	4293990			LICENSING FEES	910.00	4,810.00
ACCT: 4293					BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	260.00	71,855.00 *
ACCT: 42					LICENSES, PERMITS & FEES	260.00	71,855.00 **
092110061840	6503	4595001			MISC INCOME COPIES-LISTS	400.00	700.00
ACCT: 4595						400.00	700.00 *
ACCT: 45					CHARGES FOR SALES & SERVICES	400.00	700.00 **
092110061840	6503	4920045			NONOPERATING REVENUES	.00	1,643.13
ACCT: 4920					NONOPERATING REVENUE	.00	1,643.13 *
ACCT: 49					OTHER REVENUE	.00	1,643.13 **
CNTR: 092110061840						660.00	74,198.13 ***
CNTR: 092110061						660.00	74,198.13 ****
CNTR: 0921100						660.00	74,198.13 *****
COMP: 6503						660.00	74,198.13 *****
B UNIT: 09211						660.00	74,198.13 *****

STATE OF SOUTH DAKOTA
MONTHLY REVENUE AND JOURNAL VOUCHER REPORT
FOR PERIOD ENDING: 06/30/2025

AGENCY 09 HEALTH
EUD UNIT 09211 BOARD OF MASSAGE THERAPY - INFO

COMP	CENTER	ACCOUNT	DOCUMENT ID	POST DATE	APPROVAL, VENDOR, OR PO #	EFFECT DATE	AMOUNT	DR CR
6503 COMPANY NO 6503 PROFESSIONAL & LICENSING BOARDS								
6503	09211	72040100	BIA509282A	06/25/2025	JE2025282A	06/23/2025	18,000.00	CR
6503	09211	72040100	BOA5011229	06/30/2025	JE2025229	06/30/2025	175.00	CR
6503	09211	72040100	BOA5011356	06/30/2025		06/30/2025	175.00	DR
TOTAL ACCOUNT GROUP NET CHANGE								
6503	09211	7999999	BIA509282A	06/25/2025	JE2025282A	06/23/2025	18,000.00	CR *
TOTAL ACCOUNT GROUP NET CHANGE								
TOTAL COMPANY--NET CHANGE								
6503	09211	7999999	BIA509282A	06/25/2025	JE2025282A	06/23/2025	18,000.00	DR *
TOTAL ACCOUNT GROUP NET CHANGE								
TOTAL COMPANY--NET CHANGE								
6503 COMPANY NO 6503 PROFESSIONAL & LICENSING BOARDS								
6503	09211	0061840	4293106	06/04/2025	401596	06/02/2025	100.00	CR
6503	09211	0061840	4293990	06/04/2025	401596	06/02/2025	65.00	CR
6503	09211	0061840	4293101	06/06/2025	401907	06/04/2025	165.00	DR
6503	09211	0061840	4293101	06/06/2025	401907	06/04/2025	165.00	CR
6503	09211	0061840	4293106	06/06/2025	401907	06/04/2025	165.00	CR
6503	09211	0061840	4293990	07/03/2025	404177	06/30/2025	200.00	CR
6503	09211	0061840	4293101	07/03/2025	404177	06/30/2025	130.00	CR
6503	09211	0061840	4293102	06/04/2025		06/02/2025	2,105.00	DR
6503	09211	0061840	4293104	06/04/2025		06/02/2025	25.00	CR
6503	09211	0061840	4293106	06/04/2025		06/02/2025	130.00	CR
6503	09211	0061840	4293990	06/04/2025		06/02/2025	900.00	CR
6503	09211	0061840	4293101	06/04/2025		06/02/2025	650.00	CR
6503	09211	0061840	4293106	07/03/2025		06/30/2025	165.00	DR
6503	09211	0061840	4293990	07/03/2025		06/30/2025	100.00	CR
6503	09211	0061840	4293990	07/03/2025		06/30/2025	650.00	DR
6503	09211	0061840	4293990	07/03/2025		06/30/2025	650.00	CR
TOTAL ACCOUNT GROUP NET CHANGE								
6503	09211	0061840	4595001	06/04/2025		06/02/2025	260.00	CR *
TOTAL ACCOUNT GROUP NET CHANGE								
6503	09211	0061840	520418000000000000	06/17/2025		06/13/2025	400.00	CR *
6503	09211	0061840	520496000000000000	06/04/2025	F26395	06/02/2025	284.75	DR
6503	09211	0061840	520496000000000000	06/04/2025	F26395	06/02/2025	8.40	DR
6503	09211	0061840	520496000000000000	06/04/2025	F26395	06/02/2025	8.40	DR
6503	09211	0061840	520408000000000000	06/16/2025		06/12/2025	8.40	CR
6503	09211	0061840	520453000000000000	06/30/2025	PCEX012065	06/24/2025	2,415.00	DR
6503	09211	0061840	520502000000000000	06/30/2025	PCEX012069	06/24/2025	10.00	DR
TOTAL ACCOUNT GROUP NET CHANGE								
6503	09211	0061840	520502000000000000	06/30/2025		06/24/2025	291.15	DR

STATE OF SOUTH DAKOTA
MONTHLY EXPENDITURE REPORT
FOR PERIOD ENDING: 06/30/2025

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AGENCY 09 HEALTH
BUDGET UNIT 09211 BOARD OF MASSAGE THERAPY - INFO

COMP	CENTER	ACCOUNT	DOCUMENT NUMBER	POSTING DATE	JV APPVL #, OR PAYMENT #	SHORT NAME	VENDOR NUMBER	VENDOR GROUP	AMOUNT	DR/ CR
6503	092110061840	52040800000000000000	N295-222	06/16/2025					2,415.00	DR
	OBJSUB: 5204080								2,415.00	DR **
6503	092110061840	52040900000000000000	0525CON250712	06/04/2025	02609935	KATEBOYDCO	12712931		12,499.97	DR
	OBJSUB: 5204090			06/04/2025	02609935	KATEBOYDCO	12712931		1,234.09	DR
6503	092110061840	52041800000000000000	DP505087	06/17/2025					13,734.06	DR **
	OBJSUB: 5204180								284.75	DR **
6503	092110061840	52042070000000000000	PL505057	06/16/2025					284.75	DR **
	OBJSUB: 5204207								228.60	DR **
6503	092110061840	52045300000000000080	PCEX012065	06/30/2025					228.60	DR **
	OBJSUB: 5204530								10.00	DR **
6503	092110061840	52049600000000000000	D0950998	06/04/2025	F26395				10.00	DR **
	OBJSUB: 5204960			06/04/2025	F26395				8.40	DR
6503	092110061840	52049600000000000000	D0950998	06/04/2025	F26395				8.40	DR
	OBJSUB: 5204960								8.40	CR
6503	092110061840	52050200000000000000	PCEX012069	06/30/2025					16,680.81	DR **
	OBJSUB: 5205020								291.15	DR ***
	GROUP: 5205	SUPPLIES & MATERIALS							291.15	DR **
	COMP: 6503	OPERATING EXPENSES							291.15	DR ***
	CNTR: 092110061840								16,971.96	DR ****
	CNTR: 092110061								16,971.96	DR ****
	CNTR: 0921100								16,971.96	DR ****
	B. UNIT: 09211								16,971.96	DR ****
									16,971.96	DR ****
									16,971.96	DR ****

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2025

FISCAL YEAR PERIOD ENDING: 06/30/2025				
AGENCY	09	HEALTH		
BUDGET UNIT	09211	BOARD OF MASSAGE THERAPY - INFO		
CENTER-5	09211	BOARD OF MASSAGE THERAPY - INFO		
CENTER	COMP	ACCOUNT	DESCRIPTION	
COMPANY NO	6503			
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS			
092110061840	6503	510103000000000000	BOARD & COMM MBRS FEES	.00
ACCT: 5101		EMPLOYEE SALARIES		.00
092110061840	6503	510201000000000000	OASI-EMPLOYER'S SHARE	.00
ACCT: 5102		EMPLOYEE BENEFITS		.00
ACCT: 51		PERSONAL SERVICES		.00
092110061840	6503	520405000000000000	COMPUTER CONSULTANT	.00
092110061840	6503	520408000000000000	LEGAL CONSULTANT	2,415.00
092110061840	6503	520409000000000000	MANAGEMENT CONSULTANT	13,734.06
092110061840	6503	520418000000000000	COMPUTER SERVICES-STATE	284.75
092110061840	6503	520418100000000000	BIT DEVELOPMENT COSTS	.00
092110061840	6503	520420000000000000	CENTRAL SERVICES	.00
092110061840	6503	520420400000000000	RECORDS MGMT SERVICES	.00
092110061840	6503	520420700000000000	HUMAN RESOURCES SERVICES	228.60
092110061840	6503	520453000000000000	TELECOMMUNICATIONS SRVCS	10.00
092110061840	6503	520459000000000000	INS PREMIUMS & SURETY BDS	.00
092110061840	6503	520496000000000000	OTHER CONTRACTUAL SERVICE	.00
ACCT: 5204		CONTRACTUAL SERVICES		8.40
092110061840	6503	520502000000000000	OFFICE SUPPLIES	16,680.81
092110061840	6503	520531000000000000	PRINTING-STATE	291.15
092110061840	6503	520533000000000000	SUPP. PUBLIC & REF MAT	.00
092110061840	6503	520535000000000000	POSTAGE	.00
ACCT: 5205		SUPPLIES & MATERIALS		.00
ACCT: 52		OPERATING EXPENSES		.00
COMP: 6503		PROFESSIONAL & LICENSING BOARDS		291.15
CENTER: 092110061840				16,971.96
B UNIT: 09211				16,971.96
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Agenda Item 6(b) – South Dakota Open Meeting Laws

The 2026 South Dakota Legislature passed SB 74 that updates South Dakota Open Meeting Laws. The two changes are that (1) each agency that are required to provide public notice of its meetings must annually review the open meeting laws, and, (2) The office meeting minutes must contain an acknowledgement that the review was completed. The meeting packet includes a copy of the guide to South Dakota's Open Meeting Laws, as revised in 2025 by the Attorney General's office. Following the guide is a copy of SB 74 as it passed the Legislature and was signed by the Governor.

Agenda Item 6(d) – Proposed Amendment to Board Policy Regarding Reporting of Unlicensed Practitioners

The Board office was recently contacted by a licensee who expressed the opinion that more action may be taken if both the state's attorney and policy department are notified of complaints of unauthorized activity. The current policy is shown below:

"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*)"

Agenda Item 7 – School License Sale/Transfer

There is not currently a path to approve new massage therapy schools in South Dakota, since the authorized schools are listed in administrative rule. The board will be seeking to remedy this by including school approval and licensure in the proposed 2026 legislative bill and then amending the administrative rule to remove the list of approved schools.

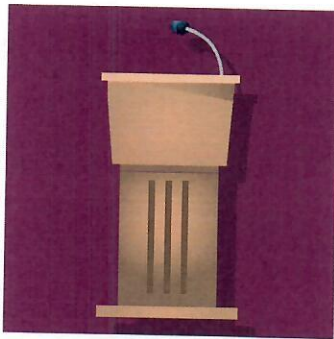
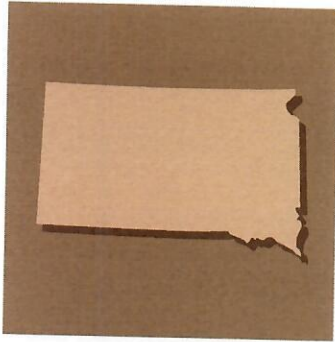
The board office has been notified by Patricia Field of her intent to purchase Pam's Massage School, currently owned and operated by Heather Herrick in Tea, South Dakota. Ms. Herricks purchased the school several years ago when the school was located in Mitchell, South Dakota.

Ms. Fields will operate the school in Gary, South Dakota. She is the current owner of Buffalo Ridge Resort and Spa. The intent is to offer massage therapy education to rural students in the surrounding area.

Agenda Item 8 – Draft Legislative Bill

Enclosed in the meeting packet is a copy of the draft legislative bill that has been developed during the past seven months. The first step was holding round-table meetings with interested licensees, with representation by two board members, as well as representatives of national massage therapy organizations.

The board gave guidance at a special meeting held on May 21, 2025 for the bill to be drafted. At this time, the board is requested to approve the draft bill. The board can still make changes to the language at this meeting before voting. The next step will be to forward the bill to the Department of Health for internal review. DOH leadership has indicated that the board may not be approved to pursue all the proposed additions, deletions, and amendments. Sometime in the Fall of 2025, the board will be notified of approved language for the bill. The language will then be formalized into a legislative bill for the 2026 legislative session. Following the legislative session, the board will need to pursue administrative rules changes to comply with any changes the legislature makes to massage therapy laws.



Conducting the Public's Business in Public

A guide to South Dakota's
Open Meetings Laws
(Revised 2025)

Prepared by:
S.D. Attorney General's Office
in partnership with the
S.D. NewsMedia Association

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Q: WHAT ARE SOUTH DAKOTA'S OPEN MEETINGS LAWS?

A: South Dakota's open meetings laws embody the principle that the public is entitled to the greatest possible information about public affairs and are intended to encourage public participation in government. SDCL Ch. 1-25 requires that official meetings of public bodies must be public and advance notice is to be given of such meetings. The statutes define an "official meeting" as one where a quorum of the public body is present and at which official business or public policy of the body is discussed or decided. Openness in government is encouraged.

Q: WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

A: The open meetings laws apply to all public bodies of the state and its political subdivisions. SDCL 1-25-1, 1-25-12(3). This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to exercise sovereign power. SDCL 1-25-12(2). Although no court decisions have been issued on the subject, this probably does not include bodies that serve only in an advisory capacity. The State Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A: Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. SDCL 1-25-1.5, 1-25-12(5). In addition, for teleconferences where

less than a quorum of the public body is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). SDCL 1-25-1.6. The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A: SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website, the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and its agencies, boards, commissions, or departments to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday). The State is also required to give notice of a public meeting by posting its proposed agenda on <http://boardsandcommissions.sd.gov>.

Q: WHO ARE LOCAL NEWS MEDIA?

A: There is no definition of "local news media" in SDCL ch. 1-25. "News media" is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that "local news media" is all news media – broadcast and print – that regularly carry news to the community.

Q: IS A PUBLIC COMMENT PERIOD REQUIRED AT PUBLIC MEETINGS?

A: Yes. Public bodies are required to provide at every official meeting a period of time on their agenda for public comment. SDCL 1-25-1. Each public body has the discretion to limit public comment as to the time allowed for each topic commented on, and as to the total time allowed for public comment. Public comment is not required at meetings held solely for an executive session, inauguration, presentation of an annual report, or swearing in of elected officials.

Q: CAN PUBLIC MEETINGS BE RECORDED?

A: Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings if the recording is reasonable, obvious, and not disruptive. This requirement does not apply to those portions of a meeting confidential or closed to the public.

Q: WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A: SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student's participation in interscholastic activities; 3) consulting with legal counsel, or reviewing communications from legal counsel about proposed or pending litigation or

contractual matters; 4) employee contract negotiations; 5) to discuss marketing or pricing strategies of a publicly-owned competitive business; or 6) to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information. The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19.

Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Any official action based on discussions in executive session must, however, be made at an open meeting.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

A: Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. "pursuant to SDCL 1-25-2(3)." Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state "motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter," or "motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel."

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAWS OCCUR?

A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to: (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both; or (b) a reprimand by the Open Meeting Commission ("OMC"). The same penalties apply if the agenda for the meeting is not properly posted, or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION ("OMC")?

A: Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed and notarized complaint is made under oath, and any necessary investigation is conducted, the State's Attorney may: (a) prosecute the case as a misdemeanor; (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes; or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State's Attorneys or Deputy State's Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General's Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General. <http://atg.sd.gov/>.

Q: WHAT DOES THE TERM "SOVEREIGN POWER" MEAN?

A: The open meetings laws do not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising "sovereign power" it should consult with legal counsel.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

A: Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body's anticipated business. Typically, the public body adopts the final agenda upon convening the meeting. At the time the final agenda is adopted, the governing body may add or delete agenda items and may also change the order of business. See *In re Yankton County Commission, Open Meetings Commission Decision # 20-03, December 31, 2020*. New items cannot be added after the agenda has been adopted by the governing body.

Public bodies are strongly encouraged to provide at least 24 hours' notice of all agenda items so as to be fair to the public and to avoid dispute.

For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

Q: ARE EMAIL DISCUSSIONS "MEETINGS" FOR PURPOSES OF THE OPEN MEETINGS LAWS?

A: The definition of an "official meeting" in SDCL 1-25-12(1) specifically includes meetings conducted by "electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform[.]" A quorum of a public body that discusses official business of that body via electronic means is conducting an official meeting for purposes of the open meetings laws. Electronic communications made solely for scheduling purposes do not fall within the definition of an official meeting.

Q: WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

A: SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or made available on the website for the public body within five business days).

These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL Ch. 1-27 are handled by separate procedures found in SDCL 1-27-35, et. seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

A: Task forces and committees that exercise "sovereign power," and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. SDCL 1-25-12(1). Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only, may not be subject to the open meetings laws, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

Q: ARE PUBLIC BODIES REQUIRED TO REVIEW THE OPEN MEETINGS LAWS?

A: Public bodies must annually review an explanation of the open meetings laws provided by the Attorney General, along with any other material pertaining to the open meetings laws made available by the Attorney General. SDCL 1-25-13. Each public body must report in its minutes that the annual review of the open meetings laws was completed.

PERTINENT S.D. OPEN MEETINGS STATUTES
(other specific provisions may apply depending on the public body involved)

1-25-1. OPEN MEETINGS. An official meeting of a public body is open to the public unless a specific law is cited by the public body to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the public body may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum must meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and must contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment, but not so limited as to provide for no public comment.

Public comment is not required at an official meeting held solely for the purpose of meeting in executive session, an inauguration, presentation of an annual report to the public body, or swearing in of a newly elected official, regardless of whether the activity takes place at the time and place usually reserved for an official meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meets solely for purposes of implementing previously publicly adopted policy; carrying out ministerial functions of that township, district, or municipality; or undertaking a factual investigation of conditions related to public safety; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE OF POLITICAL SUBDIVISIONS. Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by

telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.3. PUBLIC NOTICE OF STATE. The state shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, and be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include Saturday, Sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the Bureau of Finance and Management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, the state shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.5. TELECONFERENCE MEETING. Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall proceed to a roll call vote.

1-25-1.6. TELECONFERENCE PARTICIPATION. At any official meeting conducted by teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

1-25-2. EXECUTIVE SESSION. Executive or closed meetings may be held for the sole purposes of:

(1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;

(2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;

(3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;

(4) Preparing for contract negotiations or negotiating with employees or employee representatives;

(5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or

(6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:

(a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

(b) Emergency management or response;

(c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;

(d) Cyber security plans, computer, communications network schema, passwords, or user identification names;

(e) Guard schedules;

(f) Lock combinations;

(g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and

(h) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting

is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a class 2 misdemeanor.

1-25-6. DUTY OF STATE'S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. DUTY OF STATE'S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or

(4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney,

and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC Members. The South Dakota Open Meeting Commission is comprised of five state's attorneys or deputy state's attorneys appointed by the attorney general. Each commissioner serves at the pleasure of the attorney general. The members of the commission shall choose a chair of the commission annually by majority vote.

1-25-12. DEFINITIONS. Terms used in the open meetings laws mean:

(1) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference or electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform, provided the term does not include communications solely to schedule a meeting or confirm attendance availability for a future meeting;

(2) "Political subdivision," any association, authority, board, municipality, commission, committee, council, county, school district, task force, town, township, or other local governmental entity, which is created by statute, ordinance, or resolution, and is vested with the authority to exercise any sovereign power derived from state law;

(3) "Public body," any political subdivision or the state;

(4) "State," each agency, board, commission, or department of the State of South Dakota, not including the Legislature; and

(5) "Teleconference," an exchange of information by any audio, video, or electronic medium, including the internet.

1-25-13. ANNUAL REVIEW OF OPEN MEETING

LAWS. Any agency, as defined in § 1-26-1, or political subdivision of this state, that is required to provide public notice of its meetings pursuant to § 1-25-1.1 or 1-25-1.3 must annually review the following, during an official meeting of the agency or subdivision:

(1) The explanation of the open meeting laws of this state published by the attorney general, pursuant to § 1-11-1; and

(2) Any other material pertaining to the open meeting laws of this state provided by the attorney general.

The agency or subdivision must include in the minutes of the official meeting an acknowledgement that the review was completed.

1-27-1.16. MEETING PACKETS AND MATERIALS.

If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.

2025 South Dakota Legislature

Senate Bill 74**AMENDMENT 74A
FOR THE INTRODUCED BILL**

1 **An Act to require the publication and review of an explanation of the open meeting**
2 **laws of this state.**

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

4 **Section 1. That § 1-11-1 be AMENDED:**

5 **1-11-1.** It is the duty of the attorney general:

- 6 (1) To appear for the state and prosecute and defend all actions and proceedings, civil
7 or criminal, in the Supreme Court, in which the state shall be interested as a party;
8 (2) When requested by the Governor or either branch of the Legislature, or whenever,
9 in the judgment of the attorney general, the welfare of the state demands, to
10 appear for the state and prosecute or defend, in any court or before any officer,
11 any cause or matter, civil or criminal, in which the state may be a party or
12 interested;
13 (3) To attend to all civil cases remanded by the Supreme Court to the circuit court, in
14 which the state shall be a party or interested;
15 (4) To prosecute, at the request of the Governor, state auditor, or state treasurer, any
16 official bond or contract in which the state is interested, upon a breach thereof,
17 and to prosecute or defend for the state all actions, civil or criminal, relating to any
18 matter connected with either of their departments;
19 (5) To consult with, advise, and exercise supervision over the several state's attorneys
20 of the state in matters pertaining to the duties of their office, and the attorney
21 general shall be authorized and it is made the duty of the office, whenever in the
22 attorney general's judgment any opinion written by the attorney general will be of
23 general interest and value, to mail either written or printed copies of such opinion
24 to the auditor-general and to every state's attorney and county auditor in the state;

- 1 (6) When requested, to give an opinion in writing, without fee, upon all questions of
2 law submitted to the attorney general by the Legislature or either branch thereof,
3 or by the Governor, auditor, or treasurer;
- 4 (7) When requested by the state auditor, treasurer, or commissioner of school and
5 public lands, to prepare proper drafts for contracts, forms, and other writings,
6 which may be wanted for use of the state;
- 7 (8) To report to the Legislature, or either branch thereof, whenever requested, upon
8 any business relating to the duties of the office;
- 9 (9) To prosecute state officers who neglect or refuse to comply with the provisions of
10 statutes of this state prohibiting officers of the state from accepting any money,
11 fee, or perquisite other than salary for performance of duties connected with the
12 office or paid because of holding such office and the statute requiring issue and
13 delivery and filing of prenumbered duplicate receipts and accounting for money
14 received for the state;
- 15 (10) To pay into the state treasury all moneys received by the attorney general,
16 belonging to the state, immediately upon the receipt thereof;
- 17 (11) To prosecute any criminal action that was committed by an inmate under
18 confinement in a facility operated by the Department of Corrections; ~~and~~
- 19 (12) To attend to and perform any other duties which may from time to time be required
20 by law; and
- 21 (13) To publish an explanation of the open meeting laws of this state, as found in
22 chapter 1-25, on the attorney general's website each year before January first.

23 **Section 2. That a NEW SECTION be added to chapter 1-25:**

24 Any agency, as defined in § 1-26-1, or political subdivision of this state, that is
25 required to provide public notice of its meetings pursuant to § 1-25-1.1 or 1-25-1.3 must
26 annually review the following ~~at the first official, during an official~~ meeting of the agency
27 or subdivision ~~each calendar year~~:

- 28 (1) The explanation of the open meeting laws of this state published by the attorney
29 general, pursuant to § 1-11-1; and
- 30 (2) Any other material pertaining to the open meeting laws of this state provided by
31 the attorney general.

32 The agency or subdivision must include in the minutes of the official meeting an
33 acknowledgement that the review was completed.

2026 Bill Draft: DOH-##

Most recent version as of: (11:00 AM) (7-9-25)

FOR AN ACT ENTITLED, An Act to revise and update provisions related to the practice of massage therapy.

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

Section 1. That § 36-35-1 be AMENDED:

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

- (1) "Board," the Board of Massage Therapy;
- (2) "Instructor" a massage therapist who meets the qualifications to instruct students in a licensed massage therapy school;
- (3) "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)~~(4) "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
- (5) "Massage therapy establishment," a business in a physical location where massage therapy services are offered by licensed massage therapists;
- (6) "Massage therapy school," an entity licensed by the board to provide education to massage therapy students;
- ~~(4)~~(7) "Practice of massage therapy," the performance of massage for a fee or other compensation or holding oneself out to the public as performing massage; and
- (8) "Student," is an individual enrolled in a South Dakota massage therapy school that is approved and licensed by the board.

Section 2. That § 36-35-6.1 be AMENDED:

36-35-6.1. 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) Inspect establishments and schools licensed by the board; and
- (9) Employ or contract with personnel and enter into contracts pursuant to law to carry out the board's responsibilities.

Section 3. That a NEW SECTION be added to chapter 36-35:

The board shall promulgate rules pursuant to chapter 1-26 to establish fees as follows:

- (1) Application fee for a massage therapist license, not more than one-hundred fifty dollars;
- (2) Initial license and renewal fee for a massage therapist license, not more than one-hundred twenty dollars;
- (3) Inactive license application, not more than seventy-five dollars;
- (4) Application to reactivate inactive license, not more than one-hundred twenty-five dollars;
- (5) Purchase list of active licensees, not more than four-hundred dollars.
- (6) Business establishment initial license and renewal license, not more than one-hundred twenty dollars;
- (7) School initial license fee, and renewal fee, not more than four-hundred dollars;
- (8) Instructor license and renewal fee, not more than one-hundred twenty-five dollars;
- (9) Student license fee, not more than thirty dollars;

- (10) Verification of a South Dakota license issued under this chapter or furnishing of other documents to another state board of massage therapy, not more than thirty dollars;
- (11) Duplicate or replacement license fee, not more than twenty dollars; and
- (12) Late renewal fee:
 - _____ (a) Thirty days late, not more than thirty dollars;
 - _____ (b) Sixty days late, not more than sixty dollars; or
 - _____ (c) Ninety days late, not more than ninety dollars.

Section 4. That § 36-35-10 be AMENDED:

36-35-10. 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.

Section 5. That a NEW SECTION be added to chapter 36-35:

A person regulated under this chapter is designated as massage therapist and is exclusively entitled to use the terms "massage," "massage therapy," "massage therapist," or the acronyms "MT" and "LMT" when advertising or printing promotional material.

Any person who knowingly aids, abets, or employs one or more persons not authorized to use a professional title regulated by this chapter commits a violation of this chapter.

Any person not authorized under this chapter to use the terms "massage," "massage therapy," "massage therapist," or the acronyms "MT" or "LMT" and who uses such terms or acronyms in advertising commits a violation of this chapter.

An establishment that employs or contracts with persons licensed under this chapter may advertise massage therapy services on behalf of those licensees.

Section 6. That § 36-35-12 be AMENDED:

36-35-12. ~~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 documents;
- (2) ~~Eighteen~~ Is eighteen years of age or older;
- (2)(3) Completion of Effective July 1, 2026, has completed no less than ~~five~~ six hundred and fifty hours of training or study in the practice of massage with a facility or instructor recognized by the board. Applicants who completed massage therapy education prior to July 1, 2026 must have completed five hundred hours of massage therapy education;
- (3)(4) Absence of unprofessional conduct;
- (4)(5) Professional liability insurance coverage pursuant to § 36-35-21; and
- (5)(6) 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.

Section 7. That a NEW SECTION be added to chapter 36-35:

Massage therapy must be provided in a manner that ensures the safety, comfort, and privacy of both the client and the therapist. Clients receiving massage therapy must be appropriately draped or clothed to ensure that the anus, pubic area, and genitals are not exposed. Breast massage may be performed to treat certain medical conditions by a licensed massage therapist who has met the following conditions, to be further defined in rules promulgated by the Board:

- (1) Completion of specialized and supervised continuing education approved by the board;
- (2) A therapeutic rationale acknowledged by the client;
- (3) Written consent of the client prior to treatment; and
- (4) Utilization of appropriate draping techniques during the treatment.

A licensee who engages in the practice of massage therapy involving prohibited areas is subject to disciplinary action pursuant to 35-35-22.

Section 8. That § 36-35-12.1 be REPEALED.

~~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.~~

Section 9. That § 36-35-12.3 be AMENDED:

36-35-12.3. A license issued under this chapter is valid until September thirtieth following the date it is issued and ~~automatically expires unless it is~~ must be renewed annually. Practicing with an expired license is a violation of the chapter.

Section 10. That a NEW SECTION be added to chapter 36-35.

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 eight hours of board approved continuing education.

Section 11. That §36-35-15 be AMENDED:

36-35-15. 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~~ provides evidence satisfactory to the board that the applicant:

- (1) ~~Eighteen~~ Is eighteen years of age or older;
- (2) ~~Absence~~ Has an absence of unprofessional conduct;
- (3) ~~Professional~~ Has professional liability insurance pursuant to § 36-35-21;
- (4) ~~Verification~~ Provides 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~~ Has 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.

Section 12. §36-35-16 be AMENDED:

36-35-16. 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 ninety days after the expiration date may be granted a license renewal. The application must be accompanied by a late fee established by the board pursuant to Section 3 of this Act.

Section 13. That §36-35-17 be AMENDED:

36-35-17. Any applicant for a license under this chapter shall submit a nonrefundable application fee ~~not to exceed one hundred dollars~~ established by the board pursuant to Section 3 of this Act. 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 established by the board pursuant to Section 3 of this Act. Fees shall be set by the board by rule promulgated pursuant to chapter 1-26.~~

Section 14. That §36-35-18 be AMENDED:

36-35-18. The board may issue a duplicate license to a licensee upon request and payment of the fee established by the board pursuant to Section 3 of this Act.

Section 15. That §36-35-18.1 be AMENDED:

36-35-18.1. The board may place a massage therapy license on inactive status upon submission of an application and payment of the application fee established by the board pursuant to Section 3 of this Act. A license may be on inactive status for no more than five years after which the licensee must apply to reactive their license. Inactive licenses not reactivated within five years will expire.

Section 16. That a NEW SECTION be added to chapter 36-35.

No person may operate a massage therapy establishment where two or more licensees are practicing without an establishment license. The application must be accompanied by the license fee provided for in Section 3 of this Act.

Massage therapy establishment license expires annually on September thirtieth and must be renewed annually.

A violation of this section is a Class 2 misdemeanor.

Section 17. That a NEW SECTION be added to chapter 36-35:

The board may issue a license to operate a massage therapy school to an applicant who :

- (1) Has submitted a completed application and all required supporting documentation;
- (2) Has paid the application fee set by the board pursuant to Section 3 of this Act;
- (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 six hundred fifty clock hours or equivalent credit hours in the courses as determined by the board by rules promulgated pursuant to chapter 1-26;
- (5) Meets all requirements as established by rules adopted pursuant to this chapter.

Section 18. That a NEW SECTION be added to chapter 36-35:

Applicants for a license to instruct in a massage therapy school must provide evidence satisfactory to the board that the applicant:

- (1) Is licensed pursuant to this chapter;
- (2) Has paid the required instructor application and licensing fee pursuant to Section 3 of this Act; and
- (3) Meets the requirements for instructor education established by the board by rules promulgated pursuant to chapter 1-26 or provide evidence of at least one year of teaching experience as a licensed massage therapist from another state.

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.

Only licensed massage therapy instructors may teach massage therapy practice and technique. An individual does not have to be a licensed massage therapist or instructor to teach anatomy, physiology, pathology, business, or ethics. 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, other institution of higher learning, or licensed instructors in a cosmetology school.

The board may promulgate rules, pursuant to chapter 1-26, to establish education and experience requirements for a person to serve as a substitute instructor.

Section 19. That a NEW SECTION be added to chapter 36-35:

Any person enrolling in a licensed massage therapy school shall apply to the board for a student license within ten days of enrollment.

The applicant shall provide evidence satisfactory to the board that the applicant:

- (1) Has submitted a completed application and all documentation as required by administrative rule;

(2) Is at least seventeen years of age; and

(3) Has paid the required application fee.

If a student withdraws from the school or massage therapy program for which the student license was issued, and subsequently enrolls in a different school or program, the student shall reapply for a new student license and pay the applicable fee.

If a student transfers schools, the student shall submit a transfer application and pay the student license fee again.

Section 20. That §36-35-24 be AMENDED:

36-35-24. 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)(3) The procedures for placing a license on inactive status and the procedures to regain active licensure; ~~and~~
- (5)(4) Approval of national competency examinations;
- (5) Approval and licensing of massage therapy schools;
- (6) Approval, licensing and, and required credential of massage therapy instructors;
- (7) Approval and issuance of student permits;
- (8) Approval and licensing of massage establishments;
- (9) Safety and infection control standards for licensees, business establishments; schools;
and
- (10) Acceptance of education hours from other institutions.

PROPOSED FEES FOR 2026 ADMINISTRATIVE RULE CHANGES

[illegible]

SOUTH DAKOTA BOARD OF MASSAGE THERAPY
PROPOSED FEES FOR 2026 LEGISLATION

Fee Type	Current Fee	Additional Fee Amount	Proposed Law Fee Cap	Proposed Administrative Rule Fee
CURRENT FEES				
Application Fee	\$ 100.00	\$ 50.00	\$ 150.00	\$ 125.00
Initial License	\$ 65.00	\$ 60.00	\$ 120.00	\$ 80.00
License Renewal Fee	\$ 65.00	\$ 60.00	\$ 120.00	\$ 80.00
Inactive License Fee	\$ 25.00	\$ 50.00	\$ 75.00	\$ 50.00
Reactivate License Fee	\$ 65.00	\$ 80.00	\$ 125.00	\$ 80.00
Purchase Licensee List	\$ 300.00	\$ 100.00	\$ 400.00	\$ 325.00
NEW FEES				
Establishment Application & Renewal Fee	\$ -	\$ 75.00	\$ 125.00	\$ 75.00
School License Fee	\$ -	\$ 400.00	\$ 400.00	\$ 300.00
Instructor License & Renewal Fee	\$ -	\$ 80.00	\$ 125.00	\$ 80.00
Student License Fee	\$ -	\$ 30.00	\$ 30.00	\$ 15.00
Verification of Licensure	\$ -	\$ 30.00	\$ 30.00	\$ 20.00
Duplicate License Fee	\$ -	\$ 20.00	\$ 20.00	\$ 10.00
Late Renewal Fee -- 30 days late	\$ -	\$ 30.00	\$ 30.00	\$ 30.00
Late Renewal Fee -- 60 days late	\$ -	\$ 60.00	\$ 60.00	\$ 60.00
Late Renewal Fee -- 90 days late	\$ -	\$ 90.00	\$ 90.00	\$ 90.00