



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 22, 2022

TIME: 10:14 AM

WSR 22-13-179

Agency: Department of Health- Board of Massage

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 21-09-038 ; or

Expedited Rule Making--Proposed notice was filed as WSR ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Proposal is exempt under RCW .

Title of rule and other identifying information: (describe subject) WAC 246-830-201, 246-830-485, 246-830-490, 246-830-500, and 246-830-510 Massage therapists. The Board of Massage in coordination with the Department of Health is proposing amendments to existing sections of the massage therapist rules to correct the names of the national examinations, clarify the training requirements for somatic education and intraoral massage education, and clarify and modernize the language in the equipment and sanitation rule and the hygiene rule.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|----------|---------|---|----------|
| 07/29/22 | 9:10 am | <p>In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Board of Massage and the Department of Health will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.</p> <p>To attend the hearing please paste the following into your browser:</p> <p>https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F%2Fmeetup-join%2F19%253ameeting_MGY4ODkwM2MtYzUzZi00MGFILWExZGQtODgxZjM1Mzc0MzRh%2540thread.v2%2F0%3Fcontext%3D%257b%2522id%2522%253a%252211d0e217-264e-400a-8ba0-57dcc127d72d%2522%252c%25220id%2522%253a%2522179ae2cc-af7d-41c0-9005-</p> | |

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|--|--|--|
| | <p>8be98625ea56%2522%257d&data=05%7C01%7CMegan.Maxey%40doh.wa.gov%7Cead9979996cc422d3e3208da507c2a9a%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C637910791494272988%7CUnknown%7CTWFPbGZsb3d8eyJWljoiMC4wLjAwMDAiLCJQljoiv2luMzliLCJBTiI6lk1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=YpJbZ7EtQ5sKLFJyzdm0igVz0xiAbHN6XI%2B2dd20Sic%3D&reserved=0</p> <p>Or call in (audio only) +1 564-999-2000,,129244599# Phone Conference ID: 129 244 599#</p> | |
|--|--|--|

Date of intended adoption: 07/29/2022 (Note: This is **NOT** the effective date)

Submit written comments to:
Name: Megan Maxey
Address: PO Box 47852
Olympia, WA 98504-7852
Email: <https://fortress.wa.gov/doh/policyreview>
Fax: (360)236-2901
Other: megan.maxey@doh.wa.gov
By (date) 07/22/2022

Assistance for persons with disabilities:
Contact Megan Maxey
Phone: (360)236-4945
Fax:
TTY: 711
Email: megan.maxey@doh.wa.gov
Other:
By (date) 07/22/2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposal is to make additional amendments to five rules adopted in 2017. The proposed clarifications to WACs 246-830-485, 246-830-490, 246-830-500, and 246-830-510 and corrections to WAC 246-830-201 correctly identify the names of the national examination required for licensure, and clearly specify the necessary hygiene and sanitation practices in the massage setting in order to protect the health and safety of the public.

Reasons supporting proposal: A comprehensive review of the chapter was completed in 2017 which included amendments to WACs 246-830-201, 246-830-485, 246-830-490, and 246-830-500, along with adding new section 246-830-510. After the adoption of the rules in 2017, these five sections were identified as needing clarifications and corrections.

Statutory authority for adoption: RCWs 18.108.025 and 18.108.085

Statute being implemented: Chapter 18.108 RCW

Is rule necessary because of a:

Federal Law? Yes No
 Federal Court Decision? Yes No
 State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Name of proponent: (person or organization) Board of Massage and Department of Health Private
 Public
 Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|-------------|--------------------------------------|---------------|
| Drafting: | Megan Maxey | 111 Israel Rd SE, Tumwater, WA 98501 | (360)236-4945 |
| Implementation: | Megan Maxey | 111 Israel Rd SE, Tumwater, WA 98501 | (360)236-4945 |
| Enforcement: | Megan Maxey | 111 Israel Rd SE, Tumwater, WA 98501 | (360)236-4945 |

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
 Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
 Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Other:

No: Please explain: No significant analysis is required because the proposed amendments meet the exemption enumerated under RCW 34.05.328(5)(b)(iv). The purpose of the proposed amendments is to correct typographical errors and clarify the current rule language without changing its effect.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary: As defined in RCW 34.05.310(4)(d), the Department of Health (department) has determined that no Small Business Economic Impact Statement is required because the revisions are to correct typographical errors and clarify the current rule language without changing its effect.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: 06/22/2022
Name: Kristin Peterson, JD for Umair A. Shah, MD, MPH| Megan Maxey
Title: Deputy Secretary for Policy and Planning for Secretary of Health| Acting Executive Director

Signature:


and

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

WAC 246-830-201 Examination. (1) An applicant for a massage therapist license must successfully pass one of the following examinations:

~~((1))~~ (a) The federation of state massage therapy boards ~~((and))~~ massage and bodywork licensing examination; ~~((or~~

~~(2))~~ (b) The national certification examination for therapeutic ~~((therapy))~~ massage ~~((and))~~ bodywork; or

~~((3))~~ (c) A board-approved examination.

~~((4))~~ (2) An applicant who does not pass an examination after three attempts must provide proof to the board of having successfully completed additional clinical training or course work as determined by the board before being permitted three additional attempts to pass an exam.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

WAC 246-830-485 Somatic education training program exemption.

(1) The secretary may approve an exemption from this chapter for an individual who has completed a somatic education and training program that has a professional organization with a permanent administrative location that oversees the practice of somatic education and training and that has the following:

(a) Standards of practice;

(b) A training accreditation process;

(c) An instructor certification process;

(d) A therapist certification process; and

(e) A code of ethics or code of professional conduct.

(2) An authorized representative must submit a request for approval of a program on forms provided by the secretary.

(3) The secretary in consultation with the board will evaluate the education and training program and grant approval or denial. If denied, applicants will be given the opportunity to appeal through the brief adjudicative hearing process as authorized in chapter 246-10 WAC.

(4) The secretary may request from an approved education and training program, and the program must provide, updated information every three years to ensure the program's compliance with this rule. Approval may be withdrawn if the program fails to maintain the requirements of this rule. Where a determination has been made that the program no longer meets the requirements of this rule and a decision is made to withdraw approval, an approved program may appeal through the brief adjudicative proceeding as authorized in chapter 246-10 WAC.

(5) Organizations representing multiple training programs such as the International Alliance of Healthcare Educators, must obtain an exemption for each training program to ensure clarity regarding what is and is not exempt as a somatic education program.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

WAC 246-830-490 Intraoral massage education and training. A massage therapist may perform intraoral massage after completing specific intraoral massage education and training and after receiving an intraoral massage endorsement to their massage therapist license.

To qualify for an intraoral massage endorsement a massage therapist must complete the following education and training:

(1) Sixteen hours of direct supervised education and training, which must include:

(a) Hands-on intraoral massage techniques, cranial anatomy, physiology, and kinesiology;

(b) Pathology, cautions, and contraindications; and

(c) Hygienic practices, safety and sanitation. Hygienic practices, safety and sanitation includes, but is not limited to:

(i) Gloves must be worn during treatment and training which involves intraoral procedures;

(ii) Fresh gloves must be used for every intraoral client or patient contact;

(iii) Gloves that have been used for intraoral treatment must not be reused for any other purpose; and

(iv) Gloves must not be washed or reused for any purpose. The same pair of gloves must not be used, removed, and reused for the same client or patient at the same visit or for any other purpose.

(2) Supervised education and training must be obtained from a massage therapist endorsed in intraoral massage or from an individual who is licensed, certified, or registered and who has performed intraoral massage services within their authorized scope of practice.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

WAC 246-830-500 Equipment, linens, and sanitation. (1) A massage therapist using hydrotherapies including, but not limited to, cabinet, vapor or steam baths, whirlpool, hot tub or tub baths must have (~~available~~) adequate shower facilities available for client or patient use.

(2) All cabinets, showers, tubs, basins, massage or steam tables, hydrotherapy equipment, and all other fixed equipment used must be thoroughly cleansed using (~~an effective~~) a bactericidal agent in accordance with the manufacturer directions.

(3) Combs, brushes, shower caps, mechanical, massage and hydrotherapy instruments, or bathing devices that come in contact with the body must be sterilized or disinfected by modern and approved methods and instruments. Devices, equipment or parts thereof having been used on one person must be sterilized or disinfected before being used on another person.

(4) Impervious material must cover, full length and width, all massage tables or pads, pillows, bolsters, and face cradles directly under (~~fresh sheets and linens or disposable paper sheets~~) single service linens or disposable covers. Impervious materials and surfaces must be disinfected after each use.

(5) A massage therapist must provide single service materials or clean (~~linen such as sheets, towels, gowns, pillow cases, and all other~~) linens used in the practice of massage. Linens must be stored in a sanitary manner.

(6) All (~~towels and~~) linens (~~used for one~~) that come into direct contact with a client or patient must be laundered or cleaned before they are used on any other client or patient. Blankets used on a client or patient must be laundered at least once a day or when the blanket comes in direct contact with a client or patient or becomes soiled.

(7) All soiled linens must be immediately placed in a covered receptacle.

(8) Soap and clean towels must be provided by the massage therapist for use by massage therapists, clients or patients and any employees.

(9) All equipment must be clean, (~~well~~) in good repair, and maintained (~~and in good repair~~) to industry standards.

AMENDATORY SECTION (Amending WSR 17-14-062, filed 6/29/17, effective 7/30/17)

WAC 246-830-510 Hygiene. To maintain a professional standard of hygiene in their practice, a massage therapist must:

(1) Cleanse (~~their~~) any exposed body part used for applying treatment, before and after each treatment, using a sink with (~~hot~~) water and soap or a chemical germicidal product;

(2) Maintain a barrier of unbroken skin on their exposed body part used for applying treatment during each treatment and in the case of broken skin use a finger cot, glove or chemical barrier product to cover the affected area during treatment; and

(3) Wear clothing that is clean.