

## TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

### CHAPTER 30 - NC BOARD OF MASSAGE AND BODYWORK THERAPY

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Massage and Bodywork Therapy intends to adopt the rule cited as 21 NCAC 30 .0516 and amend the rules cited as 21 NCAC 30 .0102, .0201.

**Proposed Effective Date:** August 1, 2008

**Public Hearing:**

**Date:** April 17, 2008

**Time:** 11:00 a.m.

**Location:** Wachovia Capitol Center, 13<sup>th</sup> Floor Conference Room, 150 Fayetteville Street, Raleigh, NC 27601

**Reason for Proposed Action:** These amendments to existing rules and the additional new rule are being submitted to clarify the Massage and Bodywork Therapy Practice Act.

**Procedure by which a person can object to the agency on a proposed rule:** Any person may object to any of these proposed amendments or adoptions by submitting a written statement to Charles P. Wilkins at PO Box 2539, Raleigh, NC 27602, postmarked on or before June 3, 2008.

**Comments may be submitted to:** Charles P. Wilkins, PO Box 2539, Raleigh, NC 27602, phone (919) 833-2752, fax (919) 833-1059, email cwilkins@bws-law.com

**Comment period ends:** June 3, 2008

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

**Fiscal Impact:**

- State  
 Local  
 Substantive ( $\geq$ \$3,000,000)  
 None

### SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

#### 21 NCAC 30 .0102 DEFINITIONS

In addition to the definitions set forth in G.S. 90-622(1) through (5), the following definitions apply:

- (1) Classroom hours of supervised instruction. -- Student learning activities in a training program that is conducted in the physical presence of an instructor who meets the qualifications of Rule .0612 of this Chapter.
- (2) Generally recognized psychometric principles and standards. -- Standards for Educational and Psychological Testing (1999, American Psychological Association, American Educational Research Association, National Council on Measurement in Education), Principles of Fairness: An Examining Guide for Credentialing Boards (Revised 2002, Council on Licensure, Enforcement, and Regulation, National Organization for Competency Assurance) which is hereby incorporated by reference, including subsequent amendments and editions. Copies of the standards may be obtained from The American Psychological Association at 750 First Street, NE, Washington, DC 20002-4242 or online at <http://www.apa.org/science/standards.html>.
- ~~(1)~~(8) Practice Act. -- Article 36, Chapter 90 of the North Carolina General Statutes: The North Carolina Massage and Bodywork Therapy Practice Act.
- ~~(2)~~(5) Licensee. -- A person who holds a valid license issued by the Board to engage in the practice of massage and bodywork therapy.
- ~~(3)~~(9) Reciprocity. -- Pursuant to G.S. 90-630, a provision which shall apply to practitioners of massage and bodywork therapy qualified pursuant to Rule .0304 who reside outside the State.
- ~~(4)~~(7) Place of business. -- The primary street location where the licensee provides massage and bodywork therapy. If the licensee provides massage and bodywork therapy only at the location of clients, then it shall be the residence street address of the licensee.

- (5)(6) Malpractice. -- Conduct in variance with the Standards of Practice set forth in Section .0500 that results in harm to a client or that endangers the health or safety of a client.
- (6)(3) Gross negligence. -- The intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another.
- (7)(4) Incompetency. -- Conduct that evidences a lack of ability, fitness or knowledge to apply principles or skills of the profession of massage and bodywork therapy.
- (8)(10) Therapeutic, educational, or relaxation purposes. -- Pursuant to G.S. 90-622(3), that which is intended to positively affect the health and well-being of the client, and that does not include sexual activity, as defined in Rule .0508.

Authority G.S. 90-622; 90-626(9).

## SECTION .0200 - APPLICATION FOR LICENSE

### 21 NCAC 30 .0201 APPLICATION AND SCOPE

Each applicant for a license as a massage and bodywork therapist shall complete an application form provided by the Board. This form shall be submitted to the Board and shall be accompanied by:

- (1) ~~Recent original photograph(s)~~ One original color photograph of the applicant taken within six months preceding the date of the application of acceptable ~~Such~~ sufficient quality for identification. The photograph shall be of the head and shoulders, passport type, two inches by two inches in size;
- (2) The proper fees, as required by Rule .0204 of this Section;
- (3) Documentation that the applicant has earned a high school diploma or equivalent;
- (4) Documentation that the applicant is 18 years of age or older;
- (5) Documentation that the applicant has successfully completed a course of study at a Board-approved school consisting of a minimum of 500 classroom hours of supervised instruction. If the applicant attended a school which is not Board-approved, the Board may elect to review that applicant's educational credentials for approval on a case-by-case basis. At a minimum, the ~~The~~ documentation of such training must come from a school which is licensed by the educational licensing authority in the state, territory or country in which it operates, or is exempt by statute. In North Carolina the documentation must come from a proprietary school approved by the Board or a community college program. The curriculum must meet or be substantially equivalent to the standards set forth in Rule ~~0602(a)(3)~~ .0620(2) of this Chapter;
- (6) Documentation that the applicant has successfully passed ~~achieved a passing score on~~ an examination administered by a certifying agency that has been approved by the National Commission of Certifying Agencies (NCCA) ~~Agencies, and documentation that the applicant is a certificant and is in good standing with such agency~~ agency; or has achieved a passing score on a competency assessment examination administered by the Board or approved by the Board as meeting generally recognized psychometric principles and standards; and
- (7) A form provided by the Board containing signed statements from two licensed massage and bodywork therapists, or other licensed health care practitioners, attesting to the applicant's good moral character and adherence to ethical standards.

Authority G.S. 90-626(2); 90-629.

## SECTION .0500 - STANDARDS OF PROFESSIONAL CONDUCT

### 21 NCAC 30 .0516 TREATMENT IN BODY CAVITIES

A licensed massage and bodywork therapist (LMBT) may perform massage and bodywork therapy inside the vaginal or anal cavities of a client provided the LMBT complies with the following requirements prior to the massage or bodywork therapy:

- (1) the LMBT obtains written and signed consent from the client for treatment inside the client's vaginal or anal cavities stating that the client has been advised that the client has the right to have another person, provided either by the client or therapist, present in the room while the treatment is being performed and indicating whether the client chooses treatment with a third person present or treatment with only the therapist and the client present;
- (2) the massage and bodywork therapy treatment is performed in conformance with Rule .0509 of this Chapter;
- (3) the LMBT is competent to perform massage and bodywork therapy inside the vaginal or anal cavities of the client; and
- (4) a written prescription or order has been received from a licensed medical doctor prescribing or ordering the specific massage and bodywork therapy treatment.

Authority G.S. 90-626(9).