



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Sarah Huckabee Sanders

Renee Mallory, RN, BSN, Secretary of Health

Jennifer Dillaha, MD, Director

PUBLIC COMMENT REPORT Proposed Rules for Massage Therapy in Arkansas

PUBLIC COMMENTS:

Notice for the Public Comment period was published on May 5th, 6th, and 7th, 2024. The Public comment period initially expired June 5, 2024. Additional time was allowed for industry members to submit additional comments through June 13, 2024.

Donna McGriff

Comment received June 6, 2024

I have an issue with section 10-6 regarding cupping. There is no qualifying requirements for who can teach the Cupping in a school. I suggest you add that the instructor has been approved by the DOH to teach this class.

AGENCY RESPONSE:

All continuing education hours are approved by the Massage Therapy Technical Advisory Committee and each applicant wishing to teach continuing education hours must submit documentation that they are properly trained in the subject matter they intend to teach.

Christabelle Carpenter

Comment received June 7, 2024

The proposed changes to the massage rules/laws, is vague on the wording of inspectors being allowed to enter any room of a massage clinic/office/school. In the past, no one except the massage therapist was allowed to enter the massage room if a client was in that room or on the massage table. The current proposed changes to the inspection part of the laws/rules, makes it sound like an inspector can enter that massage room if a client is in that room or on the massage table, regardless of whether the inspector came at an appointed time or made an unannounced visit. Clarification is needed on this point, please.

AGENCY RESPONSE:

Ark. Code §17-86-203(b)(2) specifically prohibits inspectors from entering a room in which a client is receiving treatment. The Department of Health follows the law in this matter, and will review this for addition of the law in future rule revisions.



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Rachel McKeethen

Comment received June 13, 2024.

Is control or direction of licensed physician, medical hospital or similar licensed medical institution defined by review, access, or control of a plan of care or treatment plan by licensed physician or medical institution of patient and or client records that are receiving touch base therapy or massage therapy? Ex; Physician owns and rents out a space, room, or building that is used by a non-licensed person to practice massage. This physician has no supervision or access to patient or client records, treatment plan, plan of care, or treatment notes. Is this still considered exempt from Arkansas Massage Therapy Law Rules and Regulations?

AGENCY RESPONSE:

Ark. Code §17-86-301(b)(1) specifically exempts from licensure persons authorized by the laws of this state to practice medicine, osteopathy, podiatry, or physical therapy, and licensed physicians' assistants, licensed nurses, licensed physical therapy assistants, licensed acupuncturists, licensed midwives, and chiropractors. This exemption extends to individuals to whom the exempt professional delegates tasks within their scope of practice. Supervision and oversight for those professionals are subject to their licensing entity and any complaints must be directed to that licensing entity for investigation.

Ashley Hernandez, Federation of State Massage Therapy Boards\

Received June 4, 2024

*Dear Members of the Massage Therapy Technical Advisory Committee (MTTAC):
The FSMTB is a not-for-profit organization comprised of 45 massage therapy regulatory boards/agencies in the United States with a mission to support its membership in their work to ensure that the practice of massage therapy is provided to the public safely and competently. Arkansas' MTTAC is a member of the FSMTB. The FSMTB provides collective wisdom and best practices to its membership to promote uniformity of massage therapy regulation, ensuring protection of the health, safety, and welfare of the consuming public. It is imperative that therapists have a basic, entry-level knowledge of the massage therapy profession. FSMTB is writing in concern of the current proposed rules for approved massage therapy apprenticeship programs. The rule defers to the federal apprenticeship guidelines for approval and does not provide any additional state level requirements. Therefore, if the federal guideline were to change, the state would have no choice but to defer to those requirements without any state minimum standards. FSMTB recommends that the MTTAC add minimum standards for apprenticeships to the proposed rules, including minimum program hours, apprenticeship ratio, compensation provisions, and structural guidelines including visual learning to hands-on requirements*



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and competency needs. FSMTB does not oppose apprenticeships as a pathway to licensure but acknowledges that without proper oversight and guidelines, apprenticeships can be a source of workers' rights abuse, human trafficking, and a means for cheap labor. Apprenticeships can be abused by the mentor, resulting in a form of indentured servitude. Therefore, FSMTB urges MTTAC to consider additional guidelines for apprenticeships to fortify the standards outlined by the Federal Office of Apprenticeships to protect apprentices and uphold professional standards. Thank you for the opportunity to present you with testimony. Should you have any questions or would like additional information, please contact Ashley Hernandez, Government Relations Specialist at (913) 681-0380 or ahernandez@fsmtb.org.

AGENCY RESPONSE:

With the exception of issuance of learning permits for the purposes of background checks, the MTTAC and the Board of Health have no authority over apprenticeship programs under Act 811 of 2021 ("Earn and Learn Act). Regulatory authority regarding apprenticeship programs was delegated to the Federal Government under said Act. See Ark. Code Ann. §17-6-101, et seq.

Proceed to adoption.