

BOARDS AND COMMISSIONS
Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:110. Continuing education requirements.

RELATES TO: KRS 309.351, 309.355, 309.361

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate an administrative regulation establishing a requirement for continuing education as a condition for renewal of a license. KRS 309.361 identifies the requirements for continuing education and prescribes the types of courses required during the renewal period. This administrative regulation establishes the procedures and standards for submitting documentation to meet the continuing education requirements for renewal of a license.

Section 1. Definitions.

- (1) "ABMP" means the Associated Bodywork and Massage Professionals.
- (2) "AMTA" means the American Massage Therapy Association.
- (3) "AOBTA" means the American Organization for Bodywork Therapies of Asia.
- (4) "Board" is defined by KRS 309.350(1).
- (5) "CE hour" means continuing education hours consisting of fifty (50) minutes of an organized learning activity that is either didactic or clinical experience and shall exclude meals, breaks, and registration.
- (6) "Competency" means the study, development, and demonstration of knowledge and skills in meeting professional expectations as a massage therapist.
- (7) "Continuing education" means participation in an approved program or learning experience that is designed to facilitate continued competency including ethical and legal practice in the therapeutic massage and bodywork profession through participation in a learning process that enhances the licensee's current knowledge, skills, and abilities in the profession.
- (8) "FSMTB" means the Federation of State Massage Therapy Boards.
- (9) "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.
- (10) "NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.
- (11) "Provider" means an organization, entity, or individual that has met the requirements of the board to provide educational courses that are designed to ensure continued competence in the practice of massage therapy.
- (12) "Self-paced learning" means a course designated for an individual to learn at his or her own pace and is often referred to as correspondence or home study with testing or an evaluation process.

Section 2. Accrual of CE Hours; Computation of Accrual.

- (1) A licensee shall accrue a minimum of twelve (12) CE~~twenty-four (24) continuing education~~ hours during a two (2) year licensure period for renewal of a license, beginning on the date of license issue.
- (2) A minimum of three (3) of the twelve (12)~~twenty-four (24)~~ hours required by subsection (1) of this section shall be accrued in the field of professional ethics.
- (3) All CE hours shall be in or related to the practice of massage therapy.
- (4) Coursework related to therapeutic techniques conducted on animals shall not be approved for continuing education credit.

Section 3. Acquisition of CE Hours.

(1) CE hours applicable to the renewal of a license shall be directly related to the professional growth and development of massage therapy practitioners. CE hours may be earned by completing any of the educational activities described in this subsection.

(a) Courses Not Requiring Board Review and Approval. Courses from the following sources shall be relevant to the practice of massage therapy and shall be approved if the course is in or relates to massage therapy and does not violate any of the prohibitions contained in this administrative regulation:

1. Courses and Learning Opportunities approved by the NCBTMB;
2. Courses offered by the AMTA and its state affiliates;
3. Courses approved by the NCCAOM;
4. Courses offered by the AOBTA and its state affiliates;
5. Courses offered by the ABMP;
6. Kentucky board approved massage therapy programs of instruction or massage therapy programs duly licensed to operate in other states;
7. Relevant academic courses completed in a degree-granting college or university accredited by an agency that is approved by the Council on Higher Education Accreditation (CHEA); or
8. Courses offered by the FSMTB.

(b) Programs Requiring Board Review and Approval. All other programs, including self-paced learning courses and in-service training provided by organizations, educational institutions, or other service providers not listed in paragraph (a) of this subsection, and programs or academic courses presented by the licensee shall require approval by the board.

(c) Required Training for pulsed electromagnetic field (PEMF) or microcurrent devices. Massage therapists who use PEMF therapy or microcurrent devices shall be able to prove training in the use of the device they employ. Such training may be provided by entities described in Section 3(1)(a) and (b), or by the manufacturer of the device if the Applications Committee reviews the training and finds that it provides clear guidelines for proper application, indications and contraindications. Manufacturer training will not be considered for CE credit unless the training has been approved by the board as described in Section 3(1)(b).

(2) Presenters of relevant programs or academic courses may earn double continuing education credit for the length of presentation time, not to exceed six (6) CE~~twelve (12)~~ hours per renewal cycle.

(3) Credit shall not be issued for repeated instruction of the same course.

(4) A licensee shall not receive credit for completing the same CE course within the two (2) year renewal period.

Section 4. Documentation of CE Hours.

(1) A licensee shall furnish the following information regarding completion of the appropriate number of CE hours for the current renewal period:

- (a) Name of course, date, and the author or instructor;
- (b) Name of providing organization and the location of the course;
- (c) The number of hours attended;
- (d) Provider number;
- (e) Provider name and telephone number for board verification;
- (f) Official transcripts with a raised seal showing academic credits and grades awarded if courses are received from a university, college, or vocational technical adult education facility; and
- (g) Documentation of completion, if requested by the board.

(2) A licensee who supplies false information to the board in order to comply with the CE requirements of this administrative regulation shall be subject to disciplinary action that

may include suspension or revocation of license.

Section 5. Procedures for Preapproval of Continuing Education Courses.

- (1) An entity seeking to obtain approval of a continuing education course prior to its offering shall complete a Continuing Education Program Application and submit it to the board at least sixty (60) days in advance of the commencement of the course, stating the:
 - (a) Type of learning activity;
 - (b) Subject matter;
 - (c) Names and qualifications of the instructors;
 - (d) Number of ~~CE[continuing education]~~ hours offered; and
 - (e) Statement of how the CE course relates to massage therapy.
- (2) A CE activity shall be preapproved if the activity being presented:
 - (a) Is an organized course of learning;
 - (b) Pertains to subject matters that integrally relate to the practice of massage therapy;
 - (c) Contributes to the professional competency of the licensee; and
 - (d) Is conducted by an individual with approved educational training or experience.
- (3) The board shall review preapproval requests meeting the board's deadline at the board meeting immediately following the submittal and receipt of all required materials. An entity shall submit a preapproval request, and all required materials shall be received by the board at least one (1) business day before the board meeting. The board may defer a preapproval request to the next board meeting if the request did not meet the deadline established in this subsection.

Section 6. Responsibilities and Reporting Requirements of Licensees. A licensee shall:

- (1) Identify the licensee's own continuing education needs, take the initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills, and attitudes;
- (2) Select approved activities by which to earn CE hours;
- (3) Maintain records of CE hours, for a period of two (2) years from the date of renewal; and
- (4) Document attendance and participation in a CE activity by providing official transcripts, copies of certificates, or verification of completion, if requested.

Section 7. Carry-over of CE Hours.

- (1) A maximum of ~~six (6)[twelve (12)]~~ CE hours may be carried over into the next renewal period.
- (2) A licensee shall maintain records related to carry-over ~~CE[continuing education]~~ hours and submit those ~~CE[continuing education]~~ hours to the board if the licensee elects to utilize those hours for the fulfillment of the continuing education requirement for the current renewal period.
- (3) A continuing education course shall only be used for the fulfillment of the continuing education requirement for a single renewal period and shall not be subdivided for utilization in multiple renewal periods.

Section 8. Appeal Procedure If Approval for CE Hours is Denied. If an application for approval of CE hours is disapproved, the licensee may request reconsideration by the board. The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of the CE hours.

Section 9. Audit of CE Activities. The board may audit the documentation of a licensee's CE hours for the current renewal period. If notified by the board, the licensee shall respond to the audit within thirty (30) days of the date of the request.

Section 10. Waiver or Extension of Continuing Education.

(1) The board shall, in individual cases involving medical disability, illness, undue hardship, active military service, or other similar extenuating circumstance that precludes the individual's completion of the requirements, waive CE requirements or grant an extension of time within which to fulfill the requirements if the board receives:

(a) A written request for waiver or extension of time; and

(b)

1. Verifying documentation signed by a licensed physician or proper military personnel, if applicable; or

2. Documentation to support the waiver.

(2) A waiver of the minimum CE requirements or an extension of time within which to fulfill the CE requirements may be granted by the board for a period not to exceed one (1) calendar year. If the circumstance extends beyond the period of the waiver or extension, the licensee shall reapply for the waiver or extension.

Section 11. Incorporation by Reference.

(1) "Continuing Education Program Application", June 2021~~[August 2014]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Professional Licensing, 500 Mero Street, Frankfort, Kentucky 40601~~[Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602]~~, 8:00 a.m. to 4:30 p.m. The board's Web site address is: <https://bmt.ky.gov/>.

BRANDY MADDING, LMT, Chair

APPROVED BY AGENCY: September 13, 2021

FILED WITH LRC: September 15, 2021 at 9:58 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 8:00 AM EST on November 29, 2021, at 500 Mero Street, 133CE, Frankfort, Kentucky 40601. All attendees shall comply with all Executive Orders relating to the State of Emergency as may be in effect on the date of the public hearing, which may be found at: <https://governor.ky.gov/covid-19>. Members of the public may utilize the following link to attend the meeting by video conference:

CONTACT PERSON: Leah Cooper Boggs, General Counsel, Department of Professional Licensing, 500 Mero Street 237 CW, phone (office) (502) 782-0562, phone (cell) (502) 352-8095, fax (502) 564-3969, email LBoggs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leah Cooper Boggs

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation sets forth the continuing education requirements for massage therapists.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to update and clarify the continuing education requirements for massage therapy and to comply with KRS Chapter 309 as amended by HB 79 (2021).

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The Board is required by KRS 309.355(1) to regulate the practice of massage therapy. KRS 309.355(3) also authorizes the Board to promulgate administrative regulations regarding the practice of massage therapy.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

The proposed regulation clarifies the continuing education requirements of massage therapy.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

It reduces the continuing education requirements to be consistent with the statutory changes passed in the last legislative session..

(b) The necessity of the amendment to this administrative regulation:

See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes:

See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes:

See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This regulation will affect the 2,665 individuals licensed by the Board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

None. It reduces the continuing education requirements for massage therapists.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

None. It reduces the continuing education requirements for massage therapists.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

They will not have to complete as many continuing education hours.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

None. It reduces the continuing education requirements for massage therapists.

(b) On a continuing basis:

None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

There is no cost to the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

No fees are directly or indirectly established or increased by the administrative regulation.

(9) TIERING: Is tiering applied?

Tiering is not applicable as the proposed language will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Board of Licensure for Massage Therapy.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 309.355(1), 309.355(3)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

The administrative regulation will not create any additional expenses or revenues for any state or local government agency after implementation. (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fires, or school districts) for the first year? No revenues are expected to be generated by the provisions of this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

No answer provided.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

None.

(c) How much will it cost to administer this program for the first year?

There are no additional costs.

(d) How much will it cost to administer this program for subsequent years?

See 3(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: