

PUBLIC RULE HEARING AND REGULAR BOARD MEETING

The New Mexico Massage Therapy Board will hold a rule hearing on Tuesday, August 27, 2019, at 10:00 a.m. Following the rule hearing, the Board will convene a board meeting to consider adoption of the rules and address regular business. The rule hearing and board meeting will be held at the New Mexico Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, New Mexico, in the Rio Grande Room.

The purpose of the rule hearing is to consider proposed amendments to the following rules:

- 16.7.1 NMAC - General Provisions
- 16.7.2 NMAC - Professional Conduct
- 16.7.3 NMAC - Fees
- 16.7.4 NMAC - Requirements for Licensure
- 16.7.5 NMAC - Requirements for Schools
- 16.7.6 NMAC - Requirements for Instructors
- 16.7.7 NMAC - Students
- 16.7.10 NMAC - Examinations
- 16.7.11 NMAC - Continuing Education
- 16.7.12 NMAC - License/Registration Renewal
- 16.7.14 NMAC - Complaints
- 16.7.16 NMAC - Parental Responsibility Act

The changes to Parts 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 14, and 16 of the Board's rules are primarily intended to address the significant changes to the Massage Therapy Practice Act, Sections 61-12C-1 to -28 NMSA 1978 (1991, as amended through 2019) (the "Act"), which occurred this past Legislative Session. *See* S.B. 200, 54th Leg., 1st Sess. (N.M. 2019), *available at* <https://www.nmlegis.gov/Sessions/19%20Regular/final/SB0200.pdf>. The most significant of these changes to the Act was to deregulate massage therapy instructors. The changes to the Board's rules, therefore, are primarily intended to remove rules pertaining to massage therapy instructors and heavily revise rules addressing continuing education. More broadly, the rule changes are intended to comply with the provisions of the Act, incorporate more consistent terminology, and clarify existing provisions.

To obtain and review copies of the proposed changes you may go to the Board's website at: http://www.rld.state.nm.us/boards/Massage_Therapy_Rules_and_Laws.aspx, or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes to Martha Gallegos, Acting Board Administrator, via electronic mail at message.board@state.nm.us or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Monday, August 26, 2019. Persons will also be given the opportunity to present their comments at the rule hearing. All written comments will be posted to the Board's website at: http://www.rld.state.nm.us/boards/Massage_Therapy_Rules_and_Laws.aspx, no more than three business days following receipt to allow for public view.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Martha Gallegos, Acting Board Administrator at (505) 476-4622.

Statutory Authority: The Massage Therapy Practice Act, Sections 61-12C-1 to -28 NMSA 1978 (1991, as amended through 2019), among other provisions, specifically authorizes the Board to "adopt and file ... rules necessary to carry out the provisions of the Massage Therapy Practice Act."

Summary of Proposed Changes:

In addition to making minor clarification changes and removing all language related to registrations for massage therapy instructors, the proposed rules are summarized as follows:

16.7.1 NMAC - General Provisions

The amendments to Part 1 add new definitions for the terms “curriculum,” “syllabus,” “Continuing Education Provider,” and “Non-Continuing Education Provider.” Provisions pertaining to scope of practice and the definition of massage therapy would be amended to mirror those found in the Massage Therapy Practice Act (the “Act”).

16.7.2 NMAC - Professional Conduct

The amendments to Part 2 Supplement the code of professional conduct to provide that licensees and applicants may not be convicted of any crime that substantially relates to the qualifications, functions, and duties of a massage therapist.

16.7.3 NMAC - Fees

The amendments to Part 3 add new fees (as authorized by Senate Bill 200 this past Legislative Session) pertaining to continuing education courses.

16.7.4 NMAC - Requirements for Licensure

The amendments to Part 4 replace existing language pertaining to licensure exemptions with language found directly in the Act. In addition, the amendments propose to authorize the Board to, in the future, accept other licensing or certification exams beyond those already specifically accepted.

16.7.5 NMAC - Requirements for Schools

The amendments to Part 5 add new provisions setting qualifications and required documentation for instructors and teaching assistants within registered massage therapy schools’ minimum curricula, as authorized by Senate Bill 200 this past Legislative Session. Instructors within the minimum curricula would be required to hold a valid New Mexico massage therapy license, have completed at least fifty contact hours of teaching instruction, and have practiced massage therapy for a minimum of two years out of the past three. Schools would be required to submit documentation to that end.

16.7.6 NMAC - Requirements for Instructors

Part 6, which previously regulated massage therapy instructors, would be repealed in its entirety, as effectively mandated by Senate Bill 200 this past Legislative Session.

16.7.7 NMAC - Students

The amendments to Part 7 exclusively remove all language related to registrations for massage therapy instructors.

16.7.10 NMAC - Examinations

The amendments to Part 10 would include language similar to that in the amendments to Part 4 with respect to licensing examinations. Specifically, the amendments would allow applicants to take a licensing examination that itself had previously been approved by the Board.

16.7.11 NMAC - Continuing Education

The amendments to Part 11 propose significant changes to licensees’ continuing education requirements as effectively mandated by Senate Bill 200 this past Legislative Session. Specifically, the Board would utilize a two-track process for approving continuing education courses, differentiating between those courses taught by “Continuing Education Providers” and “Non-Continuing Education Providers.” While the Board would accept either towards a licensee’s continuing education requirements, the approval process differs among providers as set forth in greater detail in the amended rule. The Board would utilize a ten-percent audit and ninety-percent attestation process to ensure compliance among licensees.

16.7.12 NMAC - License/Registration Renewal

The amendments to Part 12 are exclusively clarification changes and other alterations removing all language related to registrations for massage therapy instructors.

16.7.14 NMAC - Complaints

The amendments to Part 14 are exclusively clarification changes and other alterations removing all language related to registrations for massage therapy instructors.

16.7.16 NMAC - Parental Responsibility Act

The amendments to Part 16 exclusively remove all language related to registrations for massage therapy instructors.