

Email cover:

Dear Reader,

For those of you who might not remember, I put together an analysis of the licensing process in Montana for Massage Therapy. I promised that I would distribute a copy of the Coalition Draft once I received a copy. Here it is, along with my analysis.

Enclosed in this attachment is

1. The Coalition Draft

I did not receive a copy of this draft from Hervey Perez. A member of the Coalition sent the most recent copy she possessed to me. I cannot attest to its accuracy. If you want to know who sent it to me, I will forward your request to them, and leave it to them to respond or not.

2. A Side-by-Side comparison of the AMTA-MTL bill and this Coalition draft of the key sections.

I re-arranged the order of lists so that a side-by-side comparison could be easily done. When it came to the Grandfather Clause, I summarized it for clarity, as the length of the verbiage got in the way of understanding.

3. My analysis

I welcome your comments and questions.

Yours in Health,

Deborah A. Kimmet, CNMT, NCTMB

# The Coalition Draft: An Analysis

## Introduction:

If you are new to reading this, I put together an analysis of the 2003 Legislative Process for Massage Therapy in Montana. In it, I was critical of the Montana Chapter Leadership of the AMTA (AMTA-MTL) in their handling of the situation. I was critical of the Coalition to a lesser extent for their role. The climax to the whole debacle of Legislation was when a group that comprised a majority of the Coalition stood up and testified against the bill at the Legislative Committee Hearing. They accused the AMTA-MTL of "gutting" their draft and subverting the process.

What was interesting, though, was that everyone had to take these Coalition members' word for it, as they refused to release a copy of their draft. The Coalition, as a group, did not give its permission to release it to the public, so therefore, it would not be released. This technicality has actually covered up the truth.

It is my hope that this analysis will shed a little more light on the problem. I still stand by the original analysis that I wrote, and still remain highly critical of the AMTA-MTL and the Coalition Chair for their handling of the situation. However, I am widening my view to place more of the responsibility for the problem on Coalition shoulders.

## Language Issues:

The most important issue concerning the draft legislation was where some of the oppressive language came from. I now know that it was from the Coalition itself.

### 1. Definition & Prohibited Acts

As I read the Coalition Draft, I was impressed that the AMTA-MTL kept as much of the definition and prohibited acts language intact in the SB358. There were key differences, but much of the language was there, including the language that would have put every massage therapist doing anything more than "body rubs" out of business.

In the original analysis, I pointed out that if the definition was not complete, the prohibited act that essentially said that we could not do anything considered part of another profession would prevent us from doing anything other than rubbing on the body. Yes, the AMTA-MTL did alter the definition to make it incomplete. However, the Coalition provided the prohibited acts language. In my opinion, this points to the naiveté of the Coalition in the political process (and the AMTA-MTL's for not catching it). It is suicide to put in provisions that when taken alone will "gut" the intent of a bill. Every section needs to be able to stand alone, otherwise amendments in one part of the bill will change the meaning of a section elsewhere. And that is what happened here.

### 2. Investigations/fingerprints

The AMTA-MTL added the fingerprint piece in their bill, but it was the Coalition that talked about denying a license if under investigation. The AMTA-MTL kept that language pretty intact. As you may remember, the issue is that anyone could be prevented from getting licensed if they were under any kind of investigation, even if it was not related to massage therapy. So, although the AMTA-MTL contributed to the problem here, the damaging language was the Coalition's.

### 3. Other Language

Upon close review, there were many places where the AMTA-MTL changed the language for the sake of clarity. Sometimes, changing only a word or two altered the intent and meaning of the Coalition draft. In

other cases, it improved upon the text. There were only 3 places where wholesale changes to the text were made that altered the meaning and intent.

a) **Definitions:**

I agree with the Coalition, that changes to the definitions were damaging to the profession.

b) **Requirements to Practice:**

Both Versions Required National Certification. Otherwise, the AMTA-MTL actually made the requirements to practice **easier**. The Coalition created a stair-step provision, making it harder over time for new people to become licensed (more on that later). The AMTA-MTL set the minimum standard at 600 hours which matched the Coalition's minimum standard – but for the wrong reasons (for COMTA requirements), but nonetheless, it did not exceed what the Coalition wanted.

c) **Grandfather Section:**

The AMTA-MTL waffled many times on this, but eventually, their amendments pretty closely matched the criteria set by the Coalition.

The exemptions that allowed people to practice without any massage therapy training whatsoever (dance, yoga and meditation teachers, personal trainers, and martial arts instructors) -- and who shouldn't be able to practice massage therapy carte blanche -- came from the Coalition.

The language that would have made it difficult for those exempted from the bill to advertise came from the Coalition.

## **Ethical Issues:**

I am also deeply concerned by the ethics of the Coalition on two fronts: the inherent conflict of interest that stems from exempted practitioners determining the qualifications needed in order to practice, and the appearance of "pulling up the ladder".

### **Conflict of Interest**

Coalition members who were fighting hard for their own exemptions to the law, were also making decisions as to who would practice and how much training they would need. Any practitioner on the Coalition who had obtained their own exemption to the law should not have had a vote or a say on the requirements needed to practice or on the grandfather clause. According to my source, these members did influence those parts of the process. This is a potential conflict as these people could set the training requirement to limit competition from massage therapists.

Additionally, I have to mention the conflict of interest created when someone standing to profit from the increased hours of training has a say in the process. I am talking, of course, of the school owners involved in the process.

### **Pulling up the Ladder**

One of the common temptations when developing regulation is to "pull up the ladder". This viewpoint says: "Once I've gotten myself up the ladder (and able to practice), I'm going to pull it up behind me, so it's difficult for others to follow". The most common motivations for such a viewpoint are fear and greed: fear of competition and the greed that more money is to be had if there is less competition.

Indeed, it was those very motivations that were behind the origination of the 2003 legislative process. A fly-by-night school went through the state offering minimal training. An uproar ensued and a call to arms was raised. Lip service was paid to the issue of education and the need to protect the public, but the real issues were:

1. that someone with less training could charge fees that were as much as a "trained" person,
2. that the market would be flooded with such "untrained" professionals and
3. it would take students away from the local schools and cut into their profits.

Fear and greed. If I am good at what I do, I do not need to worry that there will not be enough. The marketplace will weed out the incompetent among us -- and that includes those supposedly "trained" folks.

I asked the question of my source whether or not there was any concrete rationalization for the training requirements. In their opinion, there was not. Stair-stepping the requirements to eventually be one of the strongest in the nation at 1000 hours had better have clear rationalization. There was not, beyond that massage therapists "need more of everything."

My pet peeve is this "dial-an-hour" approach to determining how much training people need to practice. People tend to pick a number out of the air because it sounds good, or because someone else is doing it that way. They neglect to discuss exactly what those hours will consist of and why. As part of St. John seminars, I personally have trained 1000-hour school graduates who know nothing (squat) about the anatomy of the body. Their training didn't go there. And I've also trained folks who know the body inside and out with that measly 500 hours that both the AMTA-MTL and the Coalition were so loathe to acknowledge.

The only group that I know of who has really studied the issue is the National Certification Board for Therapeutic Massage and Bodywork. Even they acknowledge that their credential is any entry-level credential for therapeutic massage. Let me be clear: this is a credential for **therapeutic** massage – not relaxation massage, not spa massage, not oil-on body rubs, but the therapeutic stuff. This means the medical, allopathic, therapeutic stuff, which supposedly should take more training according to the AMTA-MTL and the Coalition. Since the NCBTMB folks have studied this issue, I think they have it right: no introductory, therapeutic credential should exceed this standard of 500 hours.

In addition, the non-therapeutic branch should even be **less** training than the 500 hours the NCBTMB advocates for the therapeutic credential. Even the AOBTA and Trager® Associations acknowledge that there are tiers in their training. Not everyone wants to do therapeutic/medical/allopathic work and our profession absolutely has to acknowledge that, not force them into a credential they don't need (500 to 1000-hour requirement).

A related issue that must be addressed: what, exactly, the purpose of legislation is. Licensing is not about excellence, it is about the minimum necessary requirements to protect the public. The Coalition appears to have forgotten this. Excellence cannot be legislated. The NCBTMB is acknowledging this one too. It is in the process of introducing advanced credentials that speak to this. It is not eliminating the entry-level therapeutic credential, but building upon it. Even so, they are still studying the issue to determine what type of training it really will take. Studying, not guessing, not picking random numbers out of the air, but studying. Any credential that is over 500 hours should be "tiered" as an advanced credential. So now we've got 3 tiers: a non-therapeutic credential at less than 500 hours, a therapeutic credential at 500 hours, and an "advanced" therapeutic credential at above 500 hours. But we don't know what that "advanced" credential looks like yet, because the NCBTMB hasn't said what it is yet. By the way, COMTA shouldn't have a say in this, as it is a group established by school owners for school owners -- that profit motive conflict of interest is one that should best be avoided.

As I see it, the national trend toward more training in our profession is being driven by community colleges who see our profession as a potential profit center, practitioners who want to restrict entry to our profession out of fear and greed, school owners who will profit from such a trend, and practitioners who want to drag the whole profession into the allopathic (medical) world. None of these can see the big picture: we are a diverse field, where every part and parcel of us matter. Homogenizing us to fit one mold will be what destroys that very thing that makes us unique.

Legislation is inevitable, but it needs to be responsive to the profession: in addition to protecting the public, it needs to protect the profession as well. The manner in which the AMTA-MTL and the Coalition went about it was of detriment to the profession, while protecting and serving the needs of the few. While the AMTA-MTL has already picked up the banner to begin again – meetings are already underway -- it is my hope that the

information provided in these reports will be useful and will help set the process on track. Or, as the old saying goes: those who do not learn from history are destined to repeat it.

Epilogue: Shortly after I wrote this up and sent it out for review, I received notification that a group of practitioners representing the AMTA, ABMP, school owners and others, have gotten together and submitted a draft proposal for legislation in California. They are in agreement that a two-tiered system of 250 hours and 500 hours is appropriate for California. And as of this writing, I've only had an opportunity to skim the bill draft, but on the surface, it looks like their sponsor agrees and has incorporated every single one of their ideas into the bill draft.

## SIDE-BY-SIDE COMPARISON: AMTA-MTL INTRODUCED BILL & THE COALITION DRAFT

### DEFINITIONS:

#### AMTA-MTL Version

(3) "Massage therapy" means the application of manual techniques, touch, pressure, positioning, and holding to the soft tissues of the body in which the goal is to enhance the well-being of the person and to facilitate relaxation, stress reduction, and general therapeutic benefits. The term includes:

- (a) massage therapy techniques that may be applied using the hands, forearms, elbows, knees, feet, or hand-held massage therapy tools; and
- (b) complementary methods, including but not limited to the application of water, heat, cold, lubricants, salt scrubs, skin brushing, wraps, or other massage oils, creams, and gels, and mechanical massage tools when used by massage therapists acting within their scope of practice.

#### Coalition Version

Massage Therapy means: The application of manual techniques, touch, pressure, **movement, stretching,** positioning and holding to the soft tissues of the body in which the intention is to enhance **or restore the health and** well being of the client and facilitate relaxation, stress reduction, **pain relief, postural and structural improvement** and general **or specific** therapeutic benefits.

These techniques may be applied using the hands, forearms, elbows, knees, feet or hand-held **mechanical or electrical devices.**

**The term includes Swedish Gymnastics and** complementary methods including but not limited to the application of water, heat, cold, lubricants, salt scrubs, skin brushing, wraps, or other **topical preparations and electro-mechanical devices that mimic or enhance the actions possible by the hands.** (?)

### QUALIFICATIONS

#### AMTA-MTL Version

- a) must possess a high school diploma or its equivalent;
- b) must be at least 18 years of age;
- c) shall file documentation with the board that the applicant is currently certified by the American heart association or the American red cross to perform cardiopulmonary resuscitation and has completed a first aid training program and an HIV training program;
- d) may not have been convicted of the offense of prostitution or promotion or aggravated promotion of prostitution as described in 45-5-601 through 45-5-603 or sexual crimes as described in Title 45, chapter 5, part 5;
- e) shall provide verification that the department of justice and the federal bureau of investigation have completed a fingerprint background check and may not be currently under investigation by any state or federal regulatory body or had any massage therapy or similar license suspended, restricted, or revoked by any state or federal regulatory body;
- f) shall provide proof of a current certificate issued by a national certification board accredited by a national accrediting agency and approved by the board, such as the national commission for certifying agencies or the American national standards institute; **and**
- g) shall file documentation with the board that the applicant has completed a minimum of 600 hours of board-approved educational course work.

#### Coalition Version

- a) Possession of a high school diploma or GED certificate.
- b) Be the minimum age of 18 years.
- c) Successful completion of CPR, first aid, and HIV/AIDS training.
- d) Not having been convicted of prostitution or a sex crime.
- e) Not currently under investigation, suspension or restriction by a regulatory body.  
Not having a massage therapy or similar license revoked by any regulatory body
- f) Successful passage of a National Certification Examination administered by a national certification board accredited by a national accrediting agency, such as the National Commission for Certifying Agencies (NCCA) and is in good standing with NCCA.
- g) Education:
  - a. 600 clock hours by the year 2003
  - b. 750 clock hours by the year 2005
  - c. 1,000 clock hours by the year 2007
  - d. Education content will be according to the curriculum content guidelines as developed by the board.
  - e. Once a practitioner becomes licensed, the licensee would not have to meet new minimum standards. .

*Original version before it was introduced had g) at 500 hrs.*

**GRANDFATHER CLAUSE: summarized for clarity:**

AMTA-MTL Version

**This was in the draft bill:**

1. the applicant has to prove
  - (a) they've been in practice for 5 or more years **and**
  - (b) completed at least 100 hours of formal training in massage as approved by the board.
2. an applicant not meeting this criteria] may apply for a temporary 2-year license that may not be renewed.
  - (a) by the end of the 2-year period, they have to have completed at least 100 additional hours of formal education, approved by the board.

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**This was in the bill as introduced:**

1. the board may grant a 2-year temporary license if the applicant:
  - (a) provides proof of 100 hours of formal training approved by the board; **or**
  - (b) has been in active, continuous practice for 10 or more years within the 15-year period immediately
2. By the end of the 2-year period, the temporary license holder must:
  - (a) obtain a National Certification Credential from NCTMB or other comparable agency **and**
  - (b) shall provide proof of completion of a total of 600 hours of board-approved educational course work;

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**This was in the proposed amendments at the hearing:**

- the board shall grant license if an applicant has:
- (a) completed a minimum of 500 hours of board-approved educational coursework **OR** ;
  - (b) been in active, continuous professional massage therapy practice for a minimum of 5 years by October 1, 2003 **OR**
  - (c) a National Certification Credential from NCTMB or other comparable agency **OR**
  - (d) been in practice between 1 and 5 years prior to October 1, 2003 and has completed 300 hours of formal training; **OR**
  - (e) a current and valid license in another state with equivalent requirements as determined by the board.

**EXEMPTIONS**

AMTA-MTL Version

- a) the teaching of a course on massage therapy by a person who is licensed, registered, or certified in another state or territory of the United States, the District of Columbia, or a foreign country;

Coalition Version

- 1) Documentation of 300 hours of formal massage therapy education, including Anatomy and Physiology as approved by the board OR
- 2) Documentation of five continuous years of professional practice in massage therapy or bodywork OR
- 3) Successful passage of a National Certification Examination administered by a national certification board accredited by a national accrediting agency, such as National Commission for Certifying Agencies (NCCA).
- 4) The maximum time allowed to apply for licensure under the grandfather provision shall be one year from the date on which the law becomes effective, and the maximum time to demonstrate compliance with the grandfather provision shall be two years from the date on which the law becomes effective.

Coalition Version

- a) Persons duly licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally called into this State to teach a course related to massage therapy or to consult with a person licensed under this article;

## EXEMPTIONS Con't

### AMTA-MTL Version

- b) the practice, performed without compensation, of a massage therapy student who is under the direct supervision of a person licensed under [sections 1 through 10] and who is currently enrolled in a required massage therapy program recognized by the board;
- c) gratuitous massage therapy provided to a member of the person's immediate family;
- d) the practice of native traditional healers, dance therapists, dance, yoga, or meditation teachers, personal trainers, or martial arts instructors;
- e) the practice of persons who restrict their manipulation of soft tissues to the hands, feet, or ears and who do not hold themselves out to be massage therapists or perform massage therapy; or
- f) the services provided by persons in Montana as part of a massage emergency response team working in conjunction with disaster relief officials when providing disaster and emergency services.
- g) the practice of persons who use touch, words, and directed movement to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement while engaged within the scope of practice of a profession with established standards and ethics if:
  - (i) their services are not designative or implied to be massage therapy; and
  - (ii) they are recognized by either a professional organization or credentialing agency that represents or certifies the respective practice based on a minimal level of training, demonstration of competency, and adherence to ethical standards;
- h) the practice of persons in this state who use touch to affect the human energy system, energy meridians, or energy fields while engaged within the scope of practice of a profession with established standards and ethics if:
  - (i) their services are not designated or implied to be massage therapy; and
  - (ii) they are recognized by either a professional organization or credentialing agency that represents or certifies the respective practice based on a minimal level of training, demonstration of competency, and adherence to ethical standards;

### Coalition Version

- b) Students enrolled in a program recognized by the Board while completing a clinical requirement for graduation that shall be performed under the supervision of a person licensed under this article; **and providing the student does not receive compensation for services rendered??**
- c) A person giving massage therapy to members of that person's immediate family;
- d) Native traditional healers when practicing on the reservation, dance therapists, dance, yoga and meditation teachers, personal trainers, and martial arts instructors.
- e) Practitioners who restrict their manipulation of the soft tissues of the body to the hands, feet, or ears, such as Reflexologists, and do not hold themselves out to be massage therapists or do massage therapy.
- f) Persons incidentally in this State to provide service as part of an emergency response team working in conjunction with disaster relief officials
- g) Practitioners engaged in the practice of touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement, while engaged within the scope of practice of a profession with established standards, provided that their services are not designated or implied to be massage or massage therapy. Practitioners must be recognized by either a professional or credentialing agency that represents or certifies the respective practice based on an accepted minimal level of training, demonstration of competency, and adherence to ethical standards. Such practices include the Feldenkrais® Method, Trager® Bodywork, and Ortho-Bionomy®, Rolf (service mark) Structural Integration.
- h) Practitioners who use touch to affect the energy systems, acupoints or Qi meridians (channels of energy) of the human body while engaged within the scope of practice of a profession with established standards and ethics, provided that their services are not designated or implied to be massage or massage therapy. Such practices include Krieger-Kunz Method of Therapeutic Touch (service marked), Polarity Therapy, Asian bodywork Therapy, Acupressure, Jin Shin Do, Qi Gong, Rieki (service marked), and Shiatsu. Practitioners must be recognized by either a professional or credentialing agency that represents or certifies the respective practice based on an accepted minimal level of training, demonstration of competency, and adherence to ethical standards.
- i) Persons who are licensed, certified, or registered under other laws of this State and who perform services within their authorized scope of practice and do not hold themselves out to be massage therapists;

## **PROHIBITED ACTS**

### AMTA-MTL Version

A licensed massage therapist may not:

- (1) diagnose or treat illnesses or diseases;
- (2) perform high-velocity, low-amplitude thrust to a joint;
- (3) apply electrical stimulation, ultrasound, iontophoresis or phonophoresis;
- (4) prescribe medicines; or
- (5) authorize the use of procedures and modalities for which a license to practice medicine, chiropractic medicine, nursing, physical therapy, occupational therapy, acupuncture, naturopathic medicine, or podiatry is required by law.

### Coalition Version

Credential holders practicing under this act shall not perform any of the following:

diagnosis of illness or disease;  
high velocity low amplitude thrust applied to a joint;  
electrical stimulation; application of ultrasound;

prescription of medicines;

the use of modalities for which a license to practice Medicine, Chiropractic, Nursing, Physical Therapy, Occupational Therapy, Acupuncture, Naturopathy, or Podiatry is required by law; or, that which constitutes an illegal act.

## Bill Components – 11/04/02

Deborah,

Here is a copy of what I believe is the last "recommended bill draft" from the coalition's efforts. It is from our November 2002 meeting. The text in red is what was updated during that meeting, and also includes a couple comments that Linda (the AMTA rep) had.

Deborah's Note: I've underlined the "red text" for those of you who only print in black and white:

**TITLE:** Massage Therapy

**DECLARATION OF PURPOSE:** The practice of Massage Therapy is hereby declared to affect the public health, safety and welfare, and to be subject to regulation (and licensure) in the public interest. The purpose of this Act is to protect and benefit the public by setting standards of qualifications, education, training and experience for those who seek to practice massage therapy to promote high standards of professional performance for those licensed to practice Massage Therapy in the state of Montana, and to protect the public from unprofessional conduct by persons licensed to practice Massage Therapy.

**Definition:**

The term Massage Therapy means: The application of manual techniques, touch, pressure, movement, stretching, positioning and holding to the soft tissues of the body in which the intention is to enhance or restore the health and well being of the client and facilitate relaxation, stress reduction, pain relief, postural and structural improvement and general or specific therapeutic benefits. These techniques may be applied using the hands, forearms, elbows, knees, feet or hand-held mechanical or electrical devices.

The term includes Swedish Gymnastics and complementary methods including but not limited to the application of water, heat, cold, lubricants, salt scrubs, skin brushing, wraps, or other topical preparations and electro-mechanical devices that mimic or enhance the actions possible by the hands. (?)

**DEFINITION: MASSAGE THERAPIST**

Massage Therapist means a person who is licensed by the state of Montana (governing board) and administers massage for compensation.

**EDUCATION:** Minimum requirements are as follows:

1) Education:

- a. 600 clock hours by the year 2003
- b. 750 clock hours by the year 2005
- c. 1,000 clock hours by the year 2007
- d. Education content will be according to the curriculum content guidelines as developed by the board.

- e. Once a practitioner becomes licensed, the licensee would not have to meet new minimum standards.
- 2) Successful passage of a National Certification Examination administered by a national certification board accredited by a national accrediting agency, such as the National Commission for Certifying Agencies (NCCA) and is in good standing with NCCA.
- 3) Be the minimum age of 18 years.
- 4) Possession of a high school diploma or GED certificate.
- 5) Successful completion of CPR, first aid, and HIV/AIDS training.
- 6) Not having been convicted of prostitution or a sex crime.
- 7) Not having a massage therapy or similar license revoked by any regulatory body.
- 8) Not currently under investigation, suspension or restriction by a regulatory body.

**CONTINUING EDUCATION:** Those licensed under this act shall renew the license every two years, and provide the Board with documentation of 24 hours of board approved continuing education during the past two years.

### **EXEMPTIONS:**

The following practitioners are exempt from the provisions of this article:

- 1) Persons who are licensed, certified, or registered under other laws of this State and who perform services within their authorized scope of practice and do not hold themselves out to be massage therapists;
- 2) Persons duly licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally called into this State to teach a course related to massage therapy or to consult with a person licensed under this article;
- 3) Students enrolled in a program recognized by the Board while completing a clinical requirement for graduation that shall be performed under the supervision of a person licensed under this article; (and providing the student does not receive compensation for services rendered??)
- 4) A person giving massage therapy to members of that person's immediate family;
- 5) Practitioners who restrict their manipulation of the soft tissues of the body to the hands, feet, or ears, such as Reflexologists, and do not hold themselves out to be massage therapists or do massage therapy.
- 6) Practitioners engaged in the practice of touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement, while engaged within the scope of practice of a profession with established standards, provided that their services are not designated or implied to be massage or massage therapy. Practitioners must be recognized by either a professional or credentialing agency that represents or certifies the respective practice based on an accepted minimal level of training, demonstration of competency, and adherence to ethical standards. Such practices include the Feldenkrais® Method, Trager® Bodywork, and Ortho-Bionomy®, Rolf (service mark) Structural Integration.

- 7) Practitioners who use touch to affect the energy systems, acupoints or Qi meridians (channels of energy) of the human body while engaged within the scope of practice of a profession with established standards and ethics, provided that their services are not designated or implied to be massage or massage therapy. Such practices include Krieger-Kunz Method of Therapeutic Touch (service marked), Polarity Therapy, Asian bodywork Therapy, Acupressure, Jin Shin Do, Qi Gong, Rieki (service marked), and Shiatsu. Practitioners must be recognized by either a professional or credentialing agency that represents or certifies the respective practice based on an accepted minimal level of training, demonstration of competency, and adherence to ethical standards.

(the following is a comment from AMTA-MTL rep:)

I wanted to make a comment regarding this exemption. Some of these modalities are not service marked practices, therefore, when presenting this to the legislation, are we really protecting the public by exempting them? In reality, anyone can call themselves a Polarity Therapist and if there is no existing credentialing or certifying agency they are able to slip through the cracks of the law. Additionally, when looking at the current proposed definition, (Virginia) do you think that Asian Bodywork, Shiatsu still wants to be listed as an exempted modality? I would think that with a certifying exam already in place it would be easy to go under the massage license, though I know that you feel that you do "bodywork". Also, will legislators be able to distinguish between Asian bodywork modalities, ie: Thai massage, shiatsu and massage and described in the definition? (Sorry if you've already explained this to me several times. I wanted to pose these questions again, as these questions may likely resurface from a sponsor or legislator. Additionally, when discussing proposed bill components with AMTA-MT members recently, they were quite surprised that Asian Bodywork was going the route of exemption.) Please give me your feedback. Thanks.

(end comment from AMTA-MTL rep.)

- 8) Persons incidentally in this State to provide service as part of an emergency response team working in conjunction with disaster relief officials.
- 9) Native traditional healers when practicing on the reservation, dance therapists, dance, yoga and meditation teachers, personal trainers, and martial arts instructors.

**HOME RULE-STATE: [Should Montana becomes a home rule state, other governing bodies shall not override this licensure law.]**

#### **ADVISORY BOARD**

STRUCTURE: The Advisory Board shall be composed of five members; four practitioners regulated under this law and one public members who are not affiliated with and do not have any financial interest in any health care profession but who have an interest in consumer rights. Of these five, none shall have any interest in any massage therapy and bodywork training program. All Board members must be residents of the State of Montana. The four practitioners shall reflect the diversity of the practitioners regulated by this Board. They must have been practicing in the state for at least five years immediately preceding their appointment.

(another comment from AMTA-MTL rep:)

I guess that we are not really sure what will come of the board, looks like at this time we are leaning more toward coming under an existing board, yet I will submit the above language. When speaking with Tom regarding board earlier on, he suggested that we change the original number from 3 practitioners to 4 practitioners and 1 public member. Having served on the Alternative Health Care Board, he felt that it is difficult to find those public members and that an additional professional/therapist member would be more useful. Any comments?

(end comment)

TERMS OF BOARD MEMBERS: Board members shall serve staggered three-year terms.

COMPENSATION: The Board members shall be compensated as is usual and customary for the State of Montana for attending meetings and representing the Board in any official capacity as approved by the Board.

APPOINTMENTS: Any person or organization may nominate candidates for the Board. Self-nominations are permissible. **[The Governor shall make all appointments in a manner consistent with appointments to other similar boards in the State of Montana.]**

POWERS: (To be added)

PROHIBITIVE ACTS: Credential holders practicing under this act shall not perform any of the following: diagnosis of illness or disease; high velocity low amplitude thrust applied to a joint; electrical stimulation; application of ultrasound; prescription of medicines; the use of modalities for which a license to practice Medicine, Chiropractic, Nursing, Physical Therapy, Occupational Therapy, Acupuncture, Naturopathy, or Podiatry is required by law; or, that which constitutes an illegal act.

INJUNCTIVE RELIEF: (To be added)

GRANDFATHERING: Practitioners shall be allowed a license if they satisfy one of the following requirements:

- 1) Documentation of 300 hours of formal massage therapy education, including Anatomy and Physiology as approved by the board OR
- 2) Documentation of five continuous years of professional practice in massage therapy or bodywork OR
- 3) Successful passage of a National Certification Examination administered by a national certification board accredited by a national accrediting agency, such as National Commission for Certifying Agencies (NCCA).
- 4) The maximum time allowed to apply for licensure under the grandfather provision shall be one year from the date on which the law becomes effective, and the maximum time to demonstrate compliance with the grandfather provision shall be two years from the date on which the law becomes effective.

LICENSE BY ENDORSEMENT: Reciprocity shall be granted to practitioners regulated in other states or jurisdictions who by the determination of the Board, possess qualifications that are substantially equivalent to the qualifications of education and examination in the State of Montana. (Successful passage of a National Certification Examination administered by a national certification board accredited by a national accrediting agency, such as National Commission for Certifying Agencies.?)

**[The application for reciprocity shall also submit a letter or other document acceptable to the Board showing whether any jurisdiction that has previously certified or licensed the applicant has instituted disciplinary proceedings.]**