



Legislative Positions July 24, 2004 (slightly revised 11/30/05)

Introduction:

One of the goals of the Business League for Massage Therapy and Bodywork (BLMTB) is to take a position on legislative issues that we believe is beneficial for the entire community. In doing so, we have drafted this document to represent what we believe to be the most pressing and important issues concerning the development of a piece of legislation. This paper is intended to be educational as well: some of you may not be familiar with how the legislative process works, and we hope to shed some light on that.

The BLMTB is striving to develop a voice that represents the community at large. We'd like to hear from you. What do you think about these positions and why?

Contact the BLMTB

email: info@blmtb.org

or write: PO Box 4686, Butte, MT 59701.

In addition, we strongly believe that it is important for you to let the AMTA-MT Chapter know how you feel too. We think that the more information that they have, the better.

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Again, our positions are malleable, based upon the feedback that we receive. Your voice does matter and we'd like to hear from you. We want to understand your issues better and in doing so, revise our positions to reflect that.

Overview:

Before expanding upon each of the individual positions, an overview is necessary. It is important to understand two things:

1. the difference between statutes (law) and regulations and
2. that laws are the result of compromise.

The Difference between Statutes and Regulations:

Statutes are what is written into the law. Rules and Regulations (R&Rs) clarify the statutes, but they **cannot** exceed the scope of the law. Statutes are hard to change, and R&Rs can be much easier to change as they are revised by the regulating board after public hearings.

These distinctions are important, because, depending upon the make-up of the board, certain things should be put into the statutes and other issues should be left to the R&Rs. The absolutely-have-to-have

issues should be spelled out and clarified in the statutes so that there is no question about what is wanted – for example, the definition of our scope of practice. It should be somewhat vague, but the things that we believe should be a standard part of the scope should be spelled out in the law, so that no other profession can come back later and challenge us on that. However, it should be vague enough, so that our profession can grow and expand with the times and without hindrance by the written statutes.

Likewise, generalized educational standards should be included in the statute, but very specific educational standards (i.e. how many hours of A&P) should be left to the R&Rs. This allows for fluidity in the enforcement – as circumstances change, then so too how the law is enforced.

We would like to leave as much as possible to the R&Rs (except for portions of the scope) depending upon the Board that we are regulated by. If we are under the Alternative Health Care Board, then our law needs to be more specific – see the section about the issues involved with the AHCB. If we develop and are regulated by our own board, then we would advocate for a looser framework in the statute.

Laws are the Result of Compromise:

It is important to understand that whatever agreement any Bill Development Group reaches with regard to a bill draft that this is not the end product. Even though members of this group will have had to compromise among themselves to come up with a bill draft, further compromise will be necessary once the bill is introduced to the legislature.

So, every time another state's legislation is screened to provide a model for drafting Montana's bill, questions need to be asked: "What did the draft originally say? What did this group have to give up in order to pass this bill?"

Based on what we observed in the last legislative session, the AMTA-MT Chapter came up with what it viewed as the best bill for our profession, only to have to compromise it all away due to demands of various legislative interest groups. It is our hope that the AMTA-MT Chapter has learned from that experience and will "build in" negotiating points into any bill that is developed.

In short, we believe that the AMTA-MT Chapter needs to very carefully weigh these issues when determining what should be left to the R&Rs and what should be included in the bill draft.

The Positions:

1. Any legislation enacted should not restrict the scope of the profession

There are many activities that go beyond the hands-on. Movement Therapy, stretching, postural evaluation, Range of Motion, hydrotherapy, cold therapy, heat therapy. Every profession uses these words and uses them differently. We deserve to use these modalities within the context and training of our profession. Any legislation has to include that right. Our practice includes everything from relaxation massage, spa modalities, and injury-based massage. And everything in between. None of these should be restricted by legislation. We also should have the right to assess the extent whether or not we should even work on someone (we don't want to be "required" to work on someone when we know that it is harmful to do so – because the reason to refuse service could be construed as a diagnosis).

We agree with a melding of the following documents as a good starting definition:

1. National AMTA proposed model legislation (denoted by regular print)
2. 2002/2003 Montana Coalition's original document (**denoted by bold print**)
3. The Critique/Proposed by Deborah Kimmet & Paige Asten (regular underline)
4. Legislation that is pending in California, and (*denoted by italicized print*)

"Massage" or "Massage Therapy" means the application of a system of structured touch, **manual techniques**, pressure, movement, **stretching, positioning**, and holding to the soft tissues of the human body in which the primary intent 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**. The term includes **Swedish Gymnastics and** complementary methods, including **but not limited to** the external application of water, heat, cold, lubricants, salt scrubs, **skin brushing, wraps**, or other topical preparations; the providing of education including self-care and stress-management; *use of devices that mimic or enhance the actions of the hands; and determination of whether massage therapy is appropriate or contraindicated, or whether referral to another health care practitioner is appropriate. For purposes of this chapter, massage and bodywork are interchangeable.*

But one must go beyond the definition when discussing scope of practice issues. The overall construction of the bill must be considered when addressing this issue. Each and every sentence must be able to stand alone and not depend upon other sections or ideas for clarity. For example, in 2003, one sentence in the proposed bill could have irreparably damaged and restricted the scope our profession – all because the definition was not comprehensive enough. The definition was not the problem, however, it was the construction of the bill and that one sentence that was the problem. Therefore, we are adamantly opposed to a "Prohibited Acts" section.

It is fair to say that our scope of practice must be restricted for the protection of the public, but there are other ways to do that without writing it into its own section. First of all, by having a "Prohibited Acts" section it is tempting for other (opposing) professions to add to the list... and keep on adding to the list. To prevent that, restrictions to our scope are best put elsewhere. Our preference is to put those restrictions into the "Exemptions Section" For example:

"Exemptions: (1) The provisions of [sections 1 through --] do not restrict or apply to the scope of practice of any other profession licensed under the laws of this state and do not constitute the practice of medicine, dentistry, osteopathy, podiatry, nursing, physical therapy, chiropractic, acupuncture, veterinary medicine, occupational therapy, naturopathic medicine, or cosmetology. (2) Massage therapy does not include attempts to adjust or manipulate any articulations of the body or spine by the use of a thrusting

force such as those used in the practice of chiropractic nor does it include the use of electrical stimulation, ultrasound, iontophoresis or phonophoresis."

We know that this language is "legal" and acceptable, as it was in the 1997 draft bill that was drafted by the Montana Legislative Council (the group that drafts all the bills for the Legislature).

We are also concerned about the "treating" issue. Whenever a physician writes a script for massage therapy, they are asking us to treat a specific condition. Adding the words that prohibit us from treatment restricts our scope of practice and would prohibit us from accepting doctor's scripts. Aside from being harmful to our clients, this would affect our ability to accept insurance reimbursement, as many insurers require the doctor's orders before authorizing treatment. In addition, as health care providers, we should be able to address specific conditions related to the soft tissue.

We advocate for omission of any words that mention diagnosing/treating illness or disease in the initial legislative draft. However, we understand that other professions might not agree, and as a negotiating point, we are willing to add the following language to the "Exemptions" Section as an amendment:

"Massage therapists do not diagnose illnesses or diseases"

Even so, other professions might not even agree with that. Therefore, if and only if we are pushed into including the language in the bill by other professions, we would very reluctantly agree to add:

"or treat illnesses or diseases not related to the soft tissue."

We do not know where our profession will go in the coming years. It is unwise to restrict ourselves without knowing what lies ahead. For the good of the profession in the future, we should advocate for as broad of a scope as possible. Otherwise our profession will not be allowed to grow and expand without future legislative intervention (going back and doing this again!). Whereas most other issues are negotiable, our scope of practice should be the one item that is not.

2. Legislation should reflect the diversity of our profession.

Language in the bill must, at the very minimum, reflect our diversity to include spa practices, wellness practices as well as health care practices. An ideal bill would include a two-tiered system:

Tier 1: Wellness & Relaxation (MTech.) – massage technician (or some other agreed upon name)

Training Required: 150 hours

Tier 2: Health Care / Therapeutic Massage (LMT) – licensed massage therapist

Required Training: 500 hours

In addition, we would advocate the ability to move from Tier 1 to Tier 2 based on continuing education credits and certifications received that are specific to "treatment" massage (NMT, orthopedic massage, MAT and others).

We believe that a two-tiered system is the best way to acknowledge and preserve the diversity of our profession. For many years, the Institute of Psycho-Structural Balancing (now the International Professional School of Bodywork) taught courses in Montana and advocated that 120 hours of training was all that was needed to get started in the profession. The Montana IPSB group eventually formed the Big Sky Somatic Institute (BSSI), which now offers a 160-hour basic training (IPSB still offers the 120 hours).. Nonetheless, Montana IPSB and BSSI (at least prior to 2003) have trained hundreds of practitioners with the basic premise that this is enough training to hang out a shingle and treat clients safely.

We settled on 150 hours because that is the number that was mentioned in testimony before the legislature in 2003 by Patti Ford, a business owner out of Bozeman who has hired many therapists to work in her business. She reported the about 150 hours is all that is needed to give a good relaxation massage and we agree.

150 hours would be enough training for someone to safely provide relaxation massage and massage for wellness and stress reduction. Furthermore, it would provide a pool of practitioners ready to be employed: in the wellness industry, in chair massage venues, by hotels, and in spas. Most spas provide their own training in the modalities offered by that spa: "boutique massage," salt glows, foot massage and so on. It would provide spas with practitioners who know the basics that then could be further trained in the "specialties of the house." This tier provides a living to practitioners who only want to "rub bodies" or who may want to work as an employee and are not interested in the health care aspects of the profession. We also want to point out that spas may not only hire from this pool of practitioners. Some spas are health care oriented and would want to hire the 500-hour practitioner too.

The 500-hour training would be the entry-level for massage therapists interested in pursuing a health care career in hospitals, chiropractor's offices, and clinics and those practitioners in private practice who want to specialize in treating injury and chronic pain. When working in the health care industry a higher standard of training is required. But what is that standard? Currently, the AMTA (in the proposed model legislation distributed by the AMTA governance committee chair, Julie Adair) and the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), and the ABMP all concur with the 500 hour standard. The only groups that have supported a higher standard are the ones most likely to gain financially (COMTA, school owners, and practitioners who would like to limit competition).

Granted, NCBTMB is developing an advanced credential, but it is just that: advanced. Legislation is about entry-level practice, not advanced practice, meaning that the requirements are geared toward what standard best protects the public and allows practitioners entry into the profession. If anyone advocates a higher educational standard, we encourage those practitioners to propose and introduce a third tier of practice at some future

legislative session, such as nurses did with the Advanced Practice Registered Nursing (APRN) credential. We would resist doing that now, as it will be difficult enough to institute the two-tiered system.

We also believe in rewarding further training and initiative to seek out that training. It just makes sense to allow Tier-1 practitioners who have furthered their education by earning an advanced credential in a health care / treatment technique the ability to move to Tier 2. We would leave it to the Board to determine what that might look like and what "advanced" credentials would be eligible.

3. Grandfathering should be fair and not put practitioners out of business

Grandfather clauses are designed to allow those already practicing the ability to continue their work. For those of you who do not understand how they work, a grandfather clause is inserted in the bill to allow those already practicing to be "grandfathered in" (apply and receive a license). The qualifications for these practitioners to gain licensure are usually much lower than the standards that are outlined for non-grandfathered practitioners. Then, the clause expires, typically 1 year after the bill is enacted. This means that anyone who is currently practicing has 1 year to be licensed under the special provisions. After that, the special provisions go away (expire) and everyone applying has to meet the standards outlined in the bill.

Our 2-tiered proposal allows everyone who has been practicing the ability to practice in some form or another, yet sets some standard for medical/health care based massage. If there is only one tier, we stick to our premise of what a true Grandfather clause contains. In either case, those licensed in other states would be included through reciprocity.

IF a **two-tiered** system is in place we advocate:

Tier 1: One year of practice from date of application.

(This guarantees the person was in practice when the bill was enacted)

Tier 2: Practitioners will meet any **one** of the following:

- a. 1 to 5 years of experience plus 150 hours of training
- b. 5 years of experience
- c. Passage of a National Test (NCTMB or equivalent)
- d. 300 hours of training

IF there is only **one tier** then it is fair and equitable to expect practitioners meet any **one** of the following:

- a. One year of practice from date of application.
- b. Passage of a National Test (NCTMB or equivalent)
- c. 300 hours of training

A true Grandfather Clause is intended to include practitioners who have been practicing when a law is passed or enacted (these are two different things). Period. No education required. The clause is designed to keep those currently practicing on the job. *Legislators understand this.* Usually, these laws are set up so that at least a year of experience is required at the time of application, as the practitioner would have proven their competency (i.e., they didn't hurt people and they could keep a client base) during that time frame.

In the long view, no one will care or remember what the grandfather standard was; they will only look at what is required of new practitioners. Two of the BLMTB Board Members hold New Mexico state licenses. In our dealings, when we say that we are New Mexico Licensed no one ever asks about the grandfather clause requirements of that license. It is the same with NCBTMB certification exam: no one ever asks if we were grandfathered into that credential either (and many practitioners were grandfathered in to sit for that exam). Nor does anyone question the grandfathering of AMTA members (standards for membership were raised on at least two occasions, but the current members were allowed to keep their membership). Grandfathering happens all the time, but no one really cares in the long run – particularly in a profession whereby the incidence of harm is negligible, as is evidenced by our very low malpractice insurance rates.

It is our contention that those grandfathered will be "termed out" through attrition and standards will be raised over time. It is expected that grandfathered practitioners will eventually die, retire, or move away. Standards will then be raised through attrition. The public is protected adequately. In our

opinion, the biggest danger to the public is posed by unethical practitioners (trained or untrained), sexual predators masquerading as massage therapists, and other professions who would restrict public access to our services – not by "under trained" massage therapists. Show us the clinical studies (not pilot studies) whereby lack of massage therapy training and incidence of injury are directly linked, and we'll change our minds.

4. We agree that some non-massage practitioners should be exempted, as this is what they want. But we have concerns about this.

Non-Massage Practitioners fought for and gained the ability to be exempted from the bill in 2003. In some instances we agreed with that stance and in others disagreed.

Who should not be exempt (or exempt with restrictions):

Yoga instructors, personal trainers, and others were given an unrestricted exemption in the 2003 bill. These professionals generally do not receive massage therapy training as part of their coursework. Therefore, we oppose a blanket exemption as this would allow that person to set up a full-fledged massage therapy practice (and advertise it) with no oversight or repercussions. Yoga instructors and dance therapists may and could qualify under the exemption given to movement practitioners (see below). At the very least, an exemption could be granted that allows them to practice "to the extent of their standard scope of practice for that profession." This is similar to what the physical therapists did in Montana in granting an exemption to massage therapists within the physical therapy statutes. We can do the same for these other professions without giving them carte blanche. We also suggest adding a further provision that what they do "is not implied or stated to be massage therapy." Two more groups should also not have blanket exemptions: sports massage teams and massage emergency response teams. These very public groups represent our profession both in good times and in emergencies. It seems that we should want to have trained practitioners representing us in the public eye, and would want only licensed practitioners.

Who should be exempt:

Native healers who are practicing massage within the scope of their training should be exempt. Visiting instructors should be exempt. Others incidentally in the state (meaning non-residents) who are here as part of an emergency response or sports massage team (it would be left to the team leaders to determine what kind of training those out of states should have).

Rolfers®, Feldenkrais® and Trager® Practitioners, and energy workers asked for and received exemptions in the 2003 bill because they are not massage based. We agree that non-massage based practices should be exempt, as long as they want to be. Our hope is that in the future, these groups would see the value of regulation and would choose to become regulated as part of a somatic practice board.

Our Concern:

Language in the 2003 bill stated that those exempted could practice as long as "their services were not designated or implied to be massage therapy." Most non-massage based practitioners advertise under the therapeutic massage category in the yellow pages. *This implies massage therapy.* Our concern is two-fold as this could:

1. restrict non-massage based therapies from advertising in the yellow pages or
2. result in prosecution by an overzealous board or local authorities.

One positive outcome for such a scenario is that it could force the phone book companies to develop new advertising categories. But, unless the consumer knows to look for those categories, practitioners would be spending a lot of money for advertising that no one would see.

It is no wonder that this language is acceptable to certain massage therapists, as it would and could be a method to limit competition. In short, the groups seeking exemption may want to reconsider their exemption language.

5. We have deep concerns being regulated by the Alternative Health Care Board (AHCb)

Why Massage Therapists should Not be regulated by the AHCb

1. The AHCb is a non-massage based board and may not make decisions that are in the best interests of the profession. We can only use the past as an indicator here. Our only personal interaction with the entire Board came during formulation of the 1997 bill. The rest of our impressions come from interactions with the public representative of the Board who came to the legislature testify against the Massage Therapy Bill in 2003. A private conversation was also held with this individual by one of the BLMTB Directors. Based on these interactions:
 - a) The AHCb would probably make decisions that are in the interests of expediency and efficiency. We would overwhelm them with our numbers by approximately 10 to 1, and by virtue of that, would take over most of the time and energies of the board. There are 85 practitioners regulated by the AHCb. There would be an estimated 1000 massage therapists who would be regulated. This would be of concern in two ways: First, Massage therapy concerns would easily overwhelm the board with work for the first couple of years as the R&Rs are developed and implemented. Secondly, because of the numbers involved, percentage-wise, massage therapy concerns could drastically eat away the time the board spends on naturopathic and midwifery concerns. This is Not what they (the AHCb) signed up for. To ensure that there would be time to deal with midwifery and naturopathic issues, any avenue that could and would save them time would be employed. Rules and regulations could be tailored in such away so as to create the least amount of work for the board, not necessarily what is in the best interest of the profession or its practitioners. For example, using COMTA standards to approve schools (detrimental because few schools meet this standard, the financial burden involved, and because of what it takes to become COMTA approved new schools would not form, thus limiting competition¹). It became clear in the 2003 conversation with the Board Representative, that this is a very real and valid concern.
 - b) There has been an attitude by the AHCb that they would "know what is best for us." In the 1996-97 meeting with the entire AHCb, one issue expressed was that massage therapists would have a say over the regulation of their practices and this concerned them. The reverse was not a big concern. Massage therapists on the board would be outnumbered 4 to 2 by the midwives and naturopaths, with a possible 2 swing votes (the public members, but one of them is also a physician). Decisions made concerning our practice would be based on an entirely different paradigm than what our practice is based on, and most likely if there is a difference of opinion, massage therapists would lose out.
 - c) The AHCb would and could make rules and regulations that are much more stringent, meeting a higher standard, than what is really necessary based on what is common massage practice. Again, based on 2003 interactions with the AHCb Board representative, it is not unreasonable to expect them to want to do this. The R&Rs cannot make new law, just clarify what is written in the law. So, if the board has authority to create educational standards and the law does not spell out what those standards are, then the board can pretty much do whatever it wants in the framework of the law.

¹ The 2003 Analysis by Deborah Kimmert addresses this in greater detail (downloadable on the Website).

- d) The AHCB would and could also make decisions based on other professions' input, not based on what is common massage practice in other states. If any of you have been reading "Massage Today" (a free publication), you will have heard that craniosacral therapy has been outlawed in one state, and other restrictions to practice have been introduced in other states.
2. The AHCB does not want to regulate us – it was clear in both 1997 and in the 2003 testimony by the ACHB Representative. Although members of the 1997 AHCB understood that they were going to have to accept oversight of massage therapists by law, the individuals on the board expressed strong reservations and reluctance because of the issues involved and the work it would create for them. Our concern is that it could create an atmosphere of resentment toward our issues, which could color decision making by the AHCB.
 3. We are not Alternative Health Care, something that happens in the place of other health care modalities, which is the case of naturopaths and midwives. Naturopathic Physicians are qualified as primary care physicians in the state of Montana. This means that an ND takes the place of an MD in the health care chain-of-command, should the patient desire it. They cannot prescribe most allopathic medications and cannot do some procedures, but they can do just about everything else that an MD in general practice can do. This is alternative. Midwives are also alternative. In a quick reading of the statutes, midwives are required to tell their patients to consult a physician or licensed nurse-midwife twice during their pregnancy (it is not a requirement for that patient to do so). However, there is no requirement that the patient also work with a physician. Both midwives and naturopathic physicians are allowed to diagnose and to treat. They are truly taking the place of allopathic physicians and nurse-midwives. Massage therapists are not Alternative. We are Complementary. This means that our practice is one of many modalities in the healing chain. Due to the diversity of our profession, some of our practitioners fit into the fitness industry, some of us fit into the personal well-being industry, and others of us fit into the health care industry. We do not diagnose, we treat. Our practice is not meant to take the place of anything, it is meant to work well with others and complement the individual's healing process. To fit us into the "alternative" box, does our profession a disservice.
 4. The threshold of training and (and competence) needed to meet consumer safety issues is much higher in Naturopathic and midwifery professions than it is in massage therapy. Yet, it is very possible that those same (unreasonable) standards would be applied to massage therapists if regulated by the AHCB. This is clear from the ACHB Representative's testimony in 2003. The AHCB currently deals with life-or-death issues on an on-going basis. Quite frankly, massage therapists do not (despite the hype in testimony in 2003). According to the IMA Group (a provider of liability insurance) Member Handbook, the majority of claims come from tables or chairs breaking, poor housekeeping and carelessness in the office (not technique related). Bruising is the second most common claim. Next, is using "too much force, too soon" instead of working your way into the tissues. And finally, improper touching. None of these are life-or-death situations and constitute a much lower threshold of training and competence. To hold us to the same standard as midwives and naturopaths is unfair and discriminatory.

The Case for a Massage Therapy & Somatic Practices Board (MTSPB)

We believe that the time is right for a separate, expandable Board that could regulate massage therapy and any other touch therapy or somatic profession that chooses to become regulated in the future.

1. Complementary Health Care practices need a board that addresses their needs, issues and scope of practice in a fair and equitable way. The threshold of training and competence within these practices are comparable to each other, and would best be addressed by its own board.
2. The AHCB has different goals, agendas, and standards of practice that are incompatible with Complementary care, and would not best meet the needs of the profession.
3. There would be about 1000 or more practitioners being licensed by this board. It would overwhelm the AHCB (whose membership is currently less than 100), and divert resources away from the life-and-death issues addressed by that board.
4. Complementary Health Care practices deserve their own board to deal with their own issues. There would be 1000 or more practitioners regulated by this board. It would also be expandable to include other somatic practices or touch therapies as they emerge and join the legislated/regulated ranks. Here the health care boards already regulated by the state, and the number of practitioners regulated by each (Montana Department of Labor & Industry Statistics taken from SJ35 Report *Board ABCs* issued August 2005 and includes all categories of active and inactive licenses):

85 – Alternative Health Care Board

Midwife Apprentice / Direct-Entry Midwife / Naturopathic Physician /
Naturopathic Physician-Childbirth

553 – Chiropractors

896 – Clinical Laboratory Science Practitioners

Clinical Laboratory Scientist / Clinical Laboratory Specialist /
Clinical Laboratory Technician,

1,208 – Dentistry

Dentist / Dental Hygienist / Denturist

462 – Funeral Services

Cemetary (Private for Profit) / Crematorium / Crematory Operator & Tech
/ Mortician / Mortician Intern / Mortuary / Mortuary Branch

83 – Hearing Aid Dispensers

484 – Licensed Addiction Counselor

6,771 – Medical Examiners

Physician (MD, DO) / Physician Assistant – certified / Podiatrist /
Nutritionist / Acupuncturist / Telemed Practitioners / Rural Rotation
Resident / EMTs (4500 EMTs recently added to Board)

14,281 –Nursing

Clinical Nurse Spec. – APRN / Clinical Nurse Spec. – PSYCH /
Nurse Anesthetist – APRN / Nurse Midwife – APRN /
Nurse Practitioner – APRN / Practical Nurse – licensed /

Prof. Nurse – registered / Foreign Nurses

243 – Nursing Home Administrators

363 – Occupational Therapy Practice

Occupational Therapist / Occupational Therapy Assistant

282 – Optometry

3,555 – Pharmacy

Mail Order Pharmacy / Pharmacist / Pharmacy – Certified /
Pharmacy Tech. Util. Plan / Registered Intern / Wholesale Drug
Distributor / Pharmacy Technician

989 – Physical Therapy Examiners

Physical Therapist / Physical Therapist Assistant

226 – Psychologists

Psychologist / Senior Psychologist

1,303 – Radiological Technologists

Limited x-ray Procedures / Radiologic Technologist

609 – Respiratory Care Practitioners

1,315 – Social Work Examiners and Professional Counselors

Professional Counselor – Clinical / Social Worker – Clinical

365 – Speech-Language Pathologists and Audiologists

Audiologist / Audiologist Aide / Speech-Lang. Pathologist /
Speech-Lang. Pathologist Aide

1,014 – Veterinary Medicine

Embryo Transfer Technician, Veterinarian,

Of the 20 health care boards regulated by the state, 13 of them have less than 1000 members. Of the 41 programs/boards of all professions regulated by the state, only 19 have more than 100 members. Our Board would then be one of the larger boards, and even larger than the Physical Therapy Examiners Board which not only regulates PTs but PT Aides as well. Our numbers alone justify our own board.

5. When reading through the minutes of the 1991 hearings and executive committee meetings that speak to the creation of the AHCB, it is clear that the Board was created to address other small alternative professions that wanted to regulate (SB381 Sponsor, Senator Judy Jacobsen from the Hearing Minutes: "We need a vehicle to put small health care provider groups into. When you have a group of 20 people that are licensed and require staffing, legal assistance and secretarial assistance it becomes very expensive for the Department of Commerce and those that have to pay the licensing fees"). The AHCB was not designed to regulate larger professions.

In closing, the needs of these "smaller" professions (20 people or less) would not be met, and that the intent justifying the creation of the AHCB would not be honored if massage were to be regulated by the AHCB. We are not a "small" group. We are concerned that the AHCB could force massage therapists to conform to an unreasonable standard, greatly exceeding what is usual and customary for the profession as has been determined by the two largest professional organizations and the largest professional national certifying board. In addition, under the AHCB, the massage therapy profession would be miscategorized as "alternative" (meaning in lieu of, or replacing). We believe that the number of massage therapists practicing in Montana (at last estimate about 1,500) justify the formation of an independent board. Therefore, we believe that it is fair and proper for massage therapists and other somatic practices to have their own board.

Other Board issues:

Board Membership:

We believe that due to the unsavory politics of the past, that membership on the regulatory board by school owners or anyone else who stands to gain financially should be prohibited. The ABMP and the AMTA are in agreement on this point. The temptation to pass regulations that are self-serving is just too great. However, we would encourage the development of either written or unwritten rules that allow for the school owners to consult with the board. We also support legislation that restricts the numbers of members from the same professional organization – we do not want one particular constituency controlling the direction of the board.

6. Schools and Continuing Education Providers should be minimally regulated by the board.

We believe that the Board should spell out the educational standards (coursework) that licensees are to meet. The Board's role would be to determine simply whether or not the students meet those standards – i.e. checking to see that they have the required hours of A&P. This is much different than regulating or approving the providers of that coursework. **We believe that the best way to do this is to omit reference to the schools and continuing education providers from the legislative bill.** This ensures that the Board cannot write any rules and regulations that would blatantly restrict or regulate the schools or CEU providers.

Schools:

However, the Board can write rules and regulations as to what curriculum standards are needed by the students to meet the training required and thus, regulate the schools in a benign and subtle way: no students would go to a school that does not provide the minimum requirements for licensure. If language must be used, **we prefer the same language that is in the occupational therapy statutes:** [applicants] "present evidence of having successfully completed the academic requirements of an educational program recognized by the board for the license sought." It should be noted that within those statutes "educational program" is not defined. This means that an educational program could be the curriculum, not the school.

Here's how it would work:

The school graduate would submit a breakdown of their school's curriculum with their application for licensure, and the Board would decide whether or not those hour requirements are met. Now, when looking at it, it would be a very time-consuming and onerous process to do this for each and every student. It will become obvious that students going to a particular school always meet the educational standards. It would then make sense to keep a list of schools ("recognized schools"), whereby if a student went to that school, their application would be "green-lighted" or automatically pass the educational portion of their application.

If the students of the schools meet the educational standards developed by the Board, then a school could be "recognized" – meaning that if a potential licensee satisfactorily completed that school's curriculum, they would automatically be approved for a license without a thorough examination of their credentials. This is very different than each school supplying, for example, its full syllabus for each course, all of the instructor résumés, background checks on those instructors and so on.

Continuing Education Units (CEUs):

We do support continuing and on-going education as a requirement for renewing licensure. However, putting onerous requirements on those who provide that education, and how that education occurs can be incredibly problematic. We have seen what poorly written laws and statutes have done in other states, and would like to avoid that in Montana. We believe that any education that is massage therapy related, and business practice related should be "counted." Requirements for the instructors of who is allowed to teach, should be a rule and regulation – not determined by statute. We think that the easiest way to handle this situation is to put CEU requirements in the statute, but leave out any reference to CEU provider qualifications.